

# economic Review

## Judiciary and Economy

(The role of a legislator)<sup>1</sup>

### I

1. In creation of a new legal framework for the economic activities, within the process of reforms which is called a transition, three actions must be taken simultaneously: **(1)** deregulation and liberalization<sup>2</sup>; **(2)** establishment of new legal institutions, and **(3)** thorough reform of the existing institutions<sup>3</sup>. Even in the countries with a strong social consensus on necessity of changes, which was clearly and more strongly expressed in balance of political forces, it was also the process that required time and consequently, in some stages it necessarily generated not only imperfect, but also (partly) unadjusted and sometimes contradictory normative system. Parallel existence of the old and the new, with occasional straying and mistakes in establishing the new, conflict between the new institutions and legal tradition (or "tradition") which acts by conceivable conservative inertia, bring about an impression of chaotic and unreliable legislation for a certain period of time. This is contributed by a necessity of legal reaction to the quasi-legislation which preceded the transition, and its consequences, the reaction which formally seems opposite to the desirable outcome of transition. For example, transition societies have faced the question of restitution (denationalization); in our country, an important question is related to the leadership which converted political power or closeness to the former regime into the property (an attempt of reaction is regulated by the law on tax on excess profits), coupled with the demands for a

<sup>1</sup> This is the speech given by Mr. Hiber at the G17 Institute roundtable "Judiciary and economy"

<sup>2</sup> We should remember the difference: while deregulation means that the one relation formerly regulated by law turns into the "space free of law", liberalization means maintenance of the legal regulations, but with the changed role of the state. See: Madzar, "Building up the institute of market economy - a prerequisite for successful economic policy", the *Ekonomist* no 19, June 5 2000

<sup>3</sup> See: Hiber, "Protection of the property rights" in *The Market Institutions and the state's role in the transition economy*, ed. D. Cvjetanin, The Economic Institute, Belgrade, 1993.

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#### Slower Inflation Growth and Increase in Output

FRY Basic Economic Indicators	2001	2001 2000	III 2002	III 2002 II 2002	III 2002 III 2001	I-III 2002 I-III 2001
GDP growth*	...	5.5%	...	...	...	...
Industrial Production	...	0.0%	...	12.7%	-2.6%	-4.1%
Montenegro	...	-0.7%	...	12.5%	-12.7%	-15.2%
Serbia	...	0.1%	...	12.7%	-1.9%	-3.3%
Central Serbia	...	-4.0%	...	10.1%	-1.6%	-4.3%
Vojvodina	...	9.2%	...	18.6%	-2.4%	-1.4%
Average nominal net wage - Serbia in YuD.	5,381**	125%**	8,204	3.53%	...	...
Nominal gross wag <sup>e</sup> - Serbia, YuD. <sup>1</sup>	...	...	11,845	3.81%	...	...
Real net wage - Serbia, in YuD. <sup>2</sup>	5,248**	135%**	8,115	3.64%	...	...
Ratio of consumer basket to average net wage	...	...	1.4	...	...	...
Unemployment Rate - registered <sup>3</sup>	27.7%	4.4%	...	...	...	...
Montenegro	...	...	...	...	...	...
Serbia	26.9%	5.0%	28.1%	0.9%	5.5%	5.4%
Current account in USD millions	-624	-87.1%	...	...	...	...
Total balance, in USD millions	-2,834	-58.5%	-232	-13.2%	22.4%	12.4%
Export - USD millions	1,903	10.5%	156	14.5%	-22.0%	-3.3%
Montenegro	178	10.3%	10	59.8%	-46.2%	-20.9%
Serbia	1,721	10.4%	145	12.2%	-19.6%	-1.0%
Import - USD millions	4,837	30.3%	387	13.6%	-22.6%	-5.8%
Montenegro	529	49.3%	22	-14.2%	-72.8%	-54.7%
Serbia	4,261	27.9%	362	16.6%	-12.4%	2.0%
Monetary supply (M1), end of period, YuD bn.	45.16	109.8%	75.20	4.47%	116.2%	121.8%
Cash	15.4	103.4%	30.10	-2.78%	166.8%	180.6%
Deposit	29.82	113.7%	45.10	9.94%	91.9%	93.4%
Real money supply, end of period, in DEM mil.	1,483	94.1%	2,443.80	4.33%	113.0%	117.6%
Hard curr. reserves, in mil. USD (end of period)	1,169	123.0%	1,477	8.6%	151.9%	149.7%
Discount rate - monthly level	1.47%	-26.65%	1.00%	0.00%	-50.00%	-45.00%
Market interest rate, monthly level	4.78%	-18.40%	3.39%	-6.61%	-33.40%	-32.85%
Retail prices - Serbia	...	91.8%	...	0.8%	29.1%	29.5%
Consumer prices - Serbia	...	93.3%	...	1.1%	29.9%	30.3%
Producer prices - Serbia	...	87.8%	...	-0.2%	12.9%	14.9%
Average exchange rate - Din/EUR - average	59.45	16.5%	60.18	0.1%	2.0%	2.1%

<sup>1</sup> By the gross wage calculation methodology applied as of June 1, 2001 \* Preliminary figures

<sup>2</sup> Deflator is cost-of-living index

\*\* According to the previous methodology

<sup>3</sup> The figures includes the employed in socially-owned sector, private sector and SMEs

## Dr Dragor Hiber

### Three parallel courses of action

### Strict law, but law

### Triumph of the facts over the norm

### Transitional solutions tend to turn into the permanent

serious "revolutionary" change in ownership, but at the same time, an institution of ultimate protection of property rights is being established. The contradiction has extended effects and the affected interest groups use it to challenge transition as a whole.

2. The judiciary is also a subject to the transitional change which must be thorough, but it is not the topic of this article. This article tends to explain the role and position of the judiciary in creation of transition environment, legal framework for economic reforms including changes in that framework.

## II

1. How the judiciary should react when, due to insufficient speed in legislative reforms, i.e. unequal speed of changes in all fields, it has to enforce the obviously outdated regulations, and consequently, to act in the way which could be easily qualified as the anti-reformist?

2. The main legal principle imposed on the legal practitioners is *Dura lex sed lex*, or, Strict law, but law, the law must be applied as it says. Let a particular judiciary decision be opposite to the system which is to be erected, let the unique judiciary practice be that way, it is up to the legislator to do what must be done, and by that time, the court has tied hands (by law). Some will endeavor to soften such a strict attitude, confronting the terms of legality and legitimacy; it has been popular for some time in the public speech in our country, but it might be applicable when it is about the realization of fundamental legal values, but hardly with regard to the (non) enforcement of technical legal regulations. The key might be searched in the rules of interpretation of laws, too, in application of the principles of the objective and value, in order to reach the very limit of possible meaning of the existing norm. This model has been known in history since the praetor's acts in the Roman law, when the fictions were used for expanding the meaning of the *ius civile* rules. Such a triumph of "the facts over the norm", when it is about enforcement of the rules which regulate economic flows, with deliberate extensive application of interpretation rules, has been familiar in our recent legal history. I will illustrate this with two examples. Both of them could be qualified as the "triumph of the necessary".

3. Our law (used to) prohibits a turnover of the foreign means of payment (also) among legal entities - economic subjects. Naturally, such turnover was run through the various forms of simulated contracts, most often the contracts on economic cooperation for production or preparation of goods for export; the buyer would pay an amount of dinars at the market exchange rate as a deposit in this operation, while the exporter would accept his right on a part of the gained foreign currency. In case of a dispute, both parties would continue with this simulation, pretending to fight in the court over the contracted business deal, not over the simulated one. Not only would the court be obliged to refuse realization of the void contract if one party mentioned the word "simulation", but also the court itself pretended not to notice simulation, although, under the Litigation Law, it is obliged to react *ex officio*. The option of such a turnover was, however, protected.

4. Similarly, in the period of hyperinflation, the Supreme Court of Serbia deliberately abandoned the explicit rules of the Contract Law which establish the principle of monetary nominalism<sup>4</sup>: the court not only accepted the foreign currency or commodity clause, but also compensation of inflator damage through revaluation of the financial commitments with reference to the changes in prices of the related items. It was necessary, even at the price of logical linguistic interpretation of the law, to protect not only the contract justice and principle of equivalence of expenses, but also the institute of contract itself.

5. Similar examples could be found in the current judiciary practice, such as the way in which commercial courts read the Law on Bankruptcy, Involuntary Settlement and Liquidation, art. 155, par. 1, p. 5, introducing the measures of pre-liquidation i.e. pre-bankruptcy procedure when there is a disputable executive function, or when the founders of an economic subject argue over the equity and over the right of management.

6. Not questioning the possibility of courts to create new legislation, i.e. adjust the existing one through broad interpretation and thus implement the acceptable system, following the obvious necessity, I want to underline not only the resulting danger to the principle of legality, but also the limitation of such methods. Intervention of the legislator is nevertheless necessary.

## III

1. Three closely related questions which refer to that intervention, i.e. to the current legislative activity, should be raised on this occasion.

2. What kind of legislation should be enacted in this initial stage of transition: the one aimed to start and regulate the transition process itself, or the one which regulate the issue in question in a desired, i.e. definite way. The basic provisional nature of the former does not speak to its favor: it not only suggests generally unwelcome frequent change in the rules, but also due to the immanent conservatism of the law which is in this case supported by the anti-transition social and political forces. Transitional solutions tend to become permanent, while the reforms could be disrupted. The latter type of legislation can be dangerous, as well, for the reasons already advanced in this article: the solutions introduced by the new laws and the new institutions act with difficulties or can be distorted in an improper environment. Besides, the problem exists with regard to deregulation, as well: the process of destruction of the old institutions is faster than construction of the new ones, while deregulation means deregulation of the system, not its destruction - this is the fact which requires a special consideration.

3. This brings us to the related issues of reception, harmonization and unification. The new legal institutions which regulate market economy search for a rational pattern of their establishing in the legislation already familiar with such institutions. International experts who assist our country in this process are prone to advocate implementation of the solutions from the more developed legal systems. I have already had an opportunity to disagree with the skepticism of some economists in our country regarding the possibility of reception in commercial and system legislation<sup>5</sup>, but it does not mean that the process of reception of institutions does not require caution. It is clear that the reception of the common law institutions is less likely to be successful than the reception of the solutions of the civil law system; many rules examined and formulated in the comparative jurisprudence, especially those related to the impact of the legal milieu on the reception, should by all means be taken into account.

4. The third question refers to the legislative policy. The executive authorities, as pursuing the policy, are the most frequent legislation proposers, with the final say on the side of the parliament. The preparation of a draft law or the consequent debate more or less satisfactory brings together numerous actors, including the judiciary. The less noticeable is the policy of legislative activity, e.g. the order of the draft law preparation procedure. Of course, the executive and legislative authorities have a decisive role in this procedure, too. However, the activity of building up and reforming our legal system requires something more than this.

5. The experience and knowledge of the judiciary is necessary in order to diminish the addressed problems. Therefore, on my opinion, it would be useful to set up a consulting center which would include, apart from the legislative and executive authorities and theoreticians, the judiciary representatives. In Serbia, i.e. FR Yugoslavia, the activities of harmonization with the European legislation are underway. But, the internal harmonization of a legal system must not be neglected, as well, and therefore one reference center would be beneficial for all.

<sup>4</sup> See details: Hiber, "Protection Contracts" in the 3.

<sup>5</sup> Idem Madzar and Hiber's comment

**Institutional Review**

Dusan Pavlovic, MA

# The European Commission Report on Stabilization and Association

By the end of March, the European Commission released its first report on the latest process of association to the European Union (hereinafter: EU). The last round of accession includes, except for Croatia, Macedonia, Albania and Bosnia, the state that is still called Federal Republic of Yugoslavia.

In the beginning, it is important to underline that the latest cycle of enlargement differs from the former in its structure. The forth enlargement, the first that included the former communist countries, started in 1989 with the establishment of diplomatic relations between the EU and these countries. This was followed by revocation of export quotas, establishing the preferential systems, Program for help and Assistance for Poland and Hungary, while the first European Association Agreements were signed up in 1991. In this round, the total of ten agreements were signed with the objective to define the free trade area both between the EU and these countries and among the individual countries. As a result, the former communist countries redirected their trade toward the EU; they increased the volume of foreign exchange with the EU, and changed the structure of their trade.

The European Association Agreements did not mean the start of the negotiation, let alone the EU membership. After these agreements had been signed, the first ten former communist countries began to negotiate the accession to the EU on March 31, 1998. The general criteria which the countries had to meet in order to access the EU (e.g. market economy, the rule of law, democracy) were defined at the 1993 Copenhagen Summit. The more detailed instruction on harmonization in legal and economic system can be found in the White Paper that was adopted by the European Commission in 1995. As of November 4, 1998, the Commission started issuing first reports on how the negotiations progress.

The Balkan countries will not access the EU under the arrangement of the European Agreements. In 1999, the Union launched a new generation of agreements named *Agreements on Stabilization and Association*, so far signed by Macedonia (December 2000) and Croatia (June 2001). This kind of agreements was introduced due to the state of war, i.e. emergency that dominated on the territories of these five countries during the 90s. The war and its damaging impact on economic and political systems in these countries is experience unfamiliar to the CEE countries after 1989. Therefore, the EU decided first to ensure stability in these countries, and then to initiate the association process.

The point of the stabilization and association strategy is to allow the Balkan countries to access the Union only on condition that they are already mutually integrated. The Report says that integration of these countries with the EU is only possible "if the future members can demonstrate that they are willing and able to interact with their neighbors as the EU states do". A fundamental hypothesis of the Stabilization and Association Strategy is, accordingly, that the economic and political reforms could not be achieved and that association is not possible as long as the region is not stable in terms of security and economically integrated at least in the area of trade. Therefore it is understandable why the EU was directly engaged in preventing the conflict in Macedonia and why it insisted, in pushing Serbia and Monte Negro to underwrite *Basic Principles for Reconstruction of Relations Between Serbia and Montenegro*, that army service should remain under prerogatives of federal state. Furthermore, the strategy requires all five countries to set up mutual free trade area, simultaneously with establishing free trade regime with the EU. This was regulated by the Memorandum on Understanding signed on June 27, 2001, by which these countries (plus Romania and Bulgaria) are to set up a free trade area by December 2002. The reason is the following: if the countries which had been at war until recently cooperate more closely, the reasons for armed conflicts will disappear.

FR Yugoslavia has started association process by setting up a consulting working group with the task to work out the analysis of the situation in Yugoslavia and

**European Association Agreements****New Generation Of Agreements****Mutual Integration Of Balkan Countries As A Condition**

## Consulting Group

prepare the ground for signing the Agreement on Stabilization and Association. This group has had three meetings so far. The first one was held on July 23, the second one on November 6, 2001, and the third one in late February 2002. At the second meeting, a decision was made on forming a special office for negotiations with the EU, which is to lead negotiations until the Ministry for European Integrations is formed. The Office has not been opened yet due to waiting for the Constitutional Charter, which is to define the tasks of the common foreign policy office of the federal state. As may be seen, Serbia and Montenegro still have neither the single association policy, not a single negotiator with the EU.

The Report says that in terms of political reforms, the general impression is positive since "Belgrade has shown a clear political determination to undertake the necessary reforms". Since the Report was released before *Basic Principles For Redefinition Of Relations Between Serbia and Montenegro* were signed, it sees the fact that the FRY consists of several separate entities as a key problem. The unclear division of prerogatives between federal and republic authorities brought about lack of harmonization in legislature and politics and even enforcement of some outdated laws. In such a climate, the EU could hardly expect the association process to pass without problems. This conditional chaos actually prompted more intensive EU commitment in redefining Serbia's and Monte Negro's mutual relations within FRY.

## Political and Legal Reforms

The work of both parliaments is perceived as a problem in the Report: of the federal parliament due to boycott of the Montenegrin pro-independence representatives, and of the Serbian since it has shown little understanding for civil initiative in adopting laws. The Report also points to political swaps that occasionally occur in the parliament (The Labor Law for the Laws on Courts). The EU is surprised the reform of the electoral legislation has not started yet. This issue is especially important since the elections for the parliaments of Serbia and Monte Negro will have to be called as soon as the Constitutional Charter is adopted, while the presidential election in Serbia are due to the end of the year. It is important to mention that the non-governmental organization CESID has made a complete draft of the election law, but the Serbian Parliament has shown little interest in it so far.

The report praises the reform of local self-government. It is necessary to underscore that this Law is in compliance with the 1985 Local Autonomy Charter; it increases the number of original prerogatives of the local authorities. The Report criticizes both governments for slow reforms in army and police. The Report puts a special emphasis on non-transparency of the army budget which accounts for a large part of the federal budget. As for police, it points to the unclear division of competences in it, as well as to the still unresolved connection between the police and Serbian underground. The Report criticizes the lack of depoliticization and civil control in both institutions. As regards human and minorities rights, the Report welcomes enactment of the Law on protection of minorities and the repeal of death sentence, but also criticizes the prolongation in enacting the law on associations and the law on frequencies and radio diffusion. Probably the biggest problems is related to the judiciary system which has not been able to process a great many cases of corruption or election malpractices of the former regime and which still cannot be said to be an independent branch of power.

## Economic Reforms

The progress in economy obtained much better grade by the Report, but is seen only as a good basis for further economic reforms. In 2001, the real GDP grew by 5.5%, in spite of the 0% industrial growth. Inflation was reduced from 115% in 2000 to 40% in 2001, while it is projected to be reduced by half in the course of this year. The problem of unemployment has not been resolved yet: according to the February data, unemployment was 27.86%. Nevertheless, in the course of 2001 fiscal policy consolidated since the budget of the Republic of Serbia in 2001 recorded a deficit of 1.5%, although it was previously projected at 6%. The 4.2% deficit is projected for 2002. The stability of the national currency Dinar needs not even to be discussed. The prices were liberalized in all sectors except for public utilities, electric power and one type of bread. US\$ 150 million was collected through privatization in 2001, while a maximum of US\$ 400 million is projected for this year, which accounts for 3.4% of the GDP. The FRY export increased by 10.4% in 2001 year-on-year, but the trade with the EU countries grew for 21% year-on-year.

It might be concluded that the European Union is generally satisfied with the pace of the reform in Serbia and Yugoslavia. However, it is aware that what has been done so far is only a good start.



# The Local Governance Law

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## 1. General Remarks

The Local Governance Law aims not only at regulating local governance, but also at decentralizing the state and increasing its efficiency. The purpose of the Local Governance Law therefore must be assessed primarily to the extent to which it decentralizes the state.

It is necessary first to explain what decentralization means. Decentralization involves a transfer of prerogatives from the highest state authorities to the lower ones. Unlike some forms of federalism, where states hand over some of its prerogatives to the federal government, decentralization of power is a reverse process. Through decentralization, the state transfers part of its prerogatives to the local authorities. The difference between the federal authority and federal units within a federal state and the state and local authorities in a unitary state is that the federal state, except for the division of prerogatives, includes the division of sovereignty. Local governance includes the division of prerogatives, but not the division of sovereignty. Nevertheless, a significant point in the concept of decentralization is a division of power. Just like the separation of powers into legislative, executive and judicial belongs to the fundamentals of the modern democracy, the division of prerogatives between higher and lower organs of power is regarded as a form of division of power. While the former is known as a horizontal, the latter is marked as a vertical division of power. Both divisions are important since every power corrupts, and the absolute power corrupts absolutely.

Although still sovereign, in case of decentralization, the state cannot maintain control over the prerogatives previously transferred to the local level. A true decentralization involves a right of citizens and local organs of power they elected to define and pursue their policies independently. As a rule, the state organs do not have right to question the validity of the decisions made by the local organs, but only to look at their compliance with higher laws.

In order to set the terms of what the scope and nature of decentralization consists in, the Council of Europe adopted the European Charter of Local Self-Government on October 15, 1985. Since then, regulating the local governance has been largely based on harmonization of domestic legislation with this Charter. It should be borne in mind that the Charter does not prescribe the ideal model of local governance, but only sets the general standards concerning the rights of the local authorities that should be respected.

The Charter promotes the subsidiarity as a key principle which defines the nature of local governance. The principle of subsidiarity implies that "the public policies generally could be pursued by the authorities closest to the citizens" (Art.3, Par. 3). It is interesting that this principle is primarily applied to the division of prerogatives between the European Union and its member states, and only later was it applied to the relations between the different levels of power within one state. The principle of subsidiarity sets some guidelines by which it is possible to reach solutions which are in union with decentralization. The subsidiarity, as a basis of every coherent decentralization, essentially implies that if something could be done by one local community or region, it should not be done by higher community, i.e. province or state. As in federation, the central authority should deal exclusively with the issues which can not be pursued independently by lower communities.

The Charter further says that "the prerogatives assigned to the local authorities are basically full and exclusive. They cannot be limited by another authority, either central or regional, except in the cases prescribed by the law" (art 4, par. 4). A transfer in which the state only delegates the power, maintaining the full control over it, is not decentralization, but deconcentration of power. De-concentration of power means that particular state policies are transferred to the lower (regional) organs; regional organs then pursue those policies as they are defined by the higher authorities. A good example of de-concentration of power in Serbia are regions. The region prefects are appointed by the Government of the Republic of Serbia. They are accountable only to the government, being only in charge of pursuing the government's policies at the region level. In contrast, decentralization means that the state practically gives up a part of its prerogatives which are transferred to the local authorities. In that sense, the prerogatives transferred from the state to the local level appear as the original prerogatives of the local authorities. Local authorities in a decentralized state are entitled to set, finance and pursue their own policies without interference of the state (except in the form of expert assistance or advice). The state control over the work of local governance is largely confined to judicial review of the local organs' acts.

An advantage of the principle of subsidiarity refers to the fact that the state, assigning a part of its prerogatives to local organs, reduces the scope of its direct responsibility. But, a more important reason in favor of decentralization is that it enables democratic control of power. Bringing the state power to the lowest possible level allows the citizens to choose their neighbors, i.e. colleagues (they could have a reliable information about the person they vote for) and pursue more reliable control of those who perform the tasks of local importance (since they are physically closer than those employed in the state administration).

The Local Governance Law adopted by the Serbian Parliament on February 14, 2002 (The Official Gazette of the Republic of Serbia, no. 9) largely allows for decentralization of power as suggested by the European Charter of Local Self Government. But, the upcoming constitutional reform in Serbia, which will have to sort out the issues of regionalization and municipal property, will allow for even more developed decentralization. Here the analysis of the structure of the Local Governance Law will be given.

*Decentralization of power*

*The European Charter of Local Self-Government*

*Subsidiarity - a key principle of local governance*

*De-concentration of power*

## 2. The character of local governance

### *Wider prerogatives of local organs*

The Local Governance Law was adopted in order to bring local governance in line with the European Charter of Local Self-Government. The extent to which the Law is harmonized with the Charter can be seen in the part which discusses the prerogatives of municipalities. The Law defines two kinds of prerogatives: original (art. 18) and assigned (art. 19-20). Unlike the former Local Governance Law, (adopted on November 19, 1999) which established only 13 original prerogatives of a municipality, under the new law, they went up to 35. Most of these prerogatives will be pursued without difficulties since the municipalities have the practice of performing them. The new prerogatives, such as setting up the strategic stockpiles or founding the institutions and organizations in primary education and health care, will have to wait until the new law is harmonized with the state laws which are to regulate this field.

### *Enumeration of prerogatives*

The Law lists the municipal prerogatives in details (by the so-called method of enumeration), in spite of the common practice in liberal laws which, while regulating the prerogatives of local governance, usually list just a few areas in which the municipalities are obliged to provide services to their citizens. However, a detail enumeration in the Local Governance Law is necessary, because otherwise local organs would not know what the precise prerogatives they are in charge of are.

Decentralization of power cannot be confined only to establishing original prerogatives of local authorities. There cannot be a local governance without financial assets through which the policy set by the municipalities can be pursued. The European Charter of Local Self-Government says that "local authorities are entitled, within the framework of the government economic policy, to adequate financial resources of their own, which may be used up freely under their prerogatives" (art. 9). The Chapter thus postulates that the local authorities must be entitled to collect at least a part of their financial revenues and to set the contribution rates independently (art.9 par.3).

### *Different kind of assets for financing municipalities*

The Law prescribes two kinds of assets for financing the municipalities: the original (The Local Governance Law, art. 78-97) and conceded (art. 98-101). The original assets are: public utility taxes (art. 79-86) and voluntary contribution (87-97). The public utility taxes are the revenues collected from the citizens on the basis of services the municipality provides. The structure of local taxes is defined in details in article 83. The citizens are free to decide on establishing the voluntary contribution (art 87). The voluntary contribution is the most direct way of implementing the subsidiarity principle, since the citizens have the possibility to independently resolve the problems which affect them most (e.g. street light, garbage collection, protection of flats and objects, etc.). The Article 88 sets the criteria for the decision on voluntary contribution to be legally valid.

As regards the original revenues, it is important to stress that a part of the revenues that has belonged to the state so far (tax on profits on the basis of self-employment activity, real estate rent, lottery profit) are fully to belong to municipalities as of now. The share of towns and municipalities in the sales tax is increased from 5% to 8%. The compensation for use of the goods in common interest (forests and forestry land, pasture fields, agricultural land, natural cures, road construction, etc.) used to belong to the Republic budget, but is to go to municipalities under this law.

It is necessary to emphasize, however, that the Charter does not stipulate only one part of the revenues of local authorities to be original, but "the financial system from which the municipalities obtain assets should be diversified and sustainable enough so as to enable the local authorities to cover all their expenses" (art. 9 par. 4). This article cannot possibly be fully observed because of the poor condition of the today's Serbian society. That's why the government opted for a diversified approach to financing the municipalities, and consequently, on March 28, 2002 adopted the Law on the Volume Of Assets And Participation Of The Municipalities And Towns In The Income And Sales Taxes In 2002 (the Official Gazette of the Republic of Serbia, no. 15). While the share of towns and municipalities in the tax on income achieved on their territories is fixed at 5%, their share in the tax on the turnover of goods and services collected on the territory in question vary from municipality to municipality, i.e. from town to town (art. 3).

### *The share of municipalities in the sales tax is increased from 5% to 8%*

The obligations of a municipality toward the republic in terms of finances are in part regulated by the Budgetary System Law. The article 7 of this Law thus prescribes that the Minister, i.e. local administrative organ monitors the execution of the budget on regular basis, and advises the government, i.e. the competent local executive organ at least twice a year. The original prerogatives of the municipality include the prerogative of a municipal assembly to pass the municipal budget (art. 30). As it will be shown later, the budget may be provided from different sources, but it is important that the Budgetary System Law passed on February 21, 20002 (Official Gazette RS, no. 9), in the article 14, imposes the following agenda of the local governance budget:

**June 15** - local administrative organ in charge of finances issues an instruction for drawing up the local governance budget draft;

**July 15** - the direct users of the local budget assets submit a proposal of the financial plan to the local administrative organ in charge of finance;

**September 15** - local administrative organ in charge of finances submits a budget draft to the competent local executive organ;

**October 5** - competent local executive organ submits a budget proposal to the local assembly and the Ministry;

**December 15** - local assembly passes the local budget;

**December 25** - local administrative organ in charge of finances submits the local budget to the Minister.

After the budget is drawn up, the local executive organ submits the following material to the local assembly: **1.** a proposal of the local budget with explanation; **2.** a projected sale of non-financial property and fixed assets used by the local authorities in the course of a fiscal year; and **3.** a proposal of decisions necessary for execution of the proposed local budget.

The municipalities can also count on some privatization revenues. Namely, the Privatization Law adopted on June 29, 2001 (The Official Gazette RS, no. 38) in the article 61 prescribes that the 5% of payments made on the basis of sale be set aside for financing the infrastructure development in the local governance unit in which the privatized entity has its site.

The Budgetary System Law forbids the borrowing of the local authorities to borrow except in the field of capital investments. A loan from the budget of the Republic of Serbia must be returned until November 30 of the current year, while the debt must not exceed 20% of the total revenues achieved in the local budget in the previous year. The short-term deficits in the budget may be financed only through the loans from the budget (art. 58).

It is yet to be seen if the revenues collected on the basis of these prerogatives will be sufficient for the local authorities to pursue local policies independently. A significant novelty consists in the fact that the amount which exceeds the total volume of the collected sales tax revenues is divided up in a different way. Under the previous Local Governance Law, when the income tax revenues collection reach the total projected volume of assets, everything that is collected afterwards goes to the government (art. 49). Under the new solutions introduced in the Law on the Volume Of Assets And Participation Of The Municipalities And Towns In The Income And Sales Taxes In 2002, the whole surplus collected by municipalities, i.e. the amount which exceeds the limit which used to be realized on the territory of a particular municipality, is divided in a proportion of 50:50 between the state and local municipalities (art. 4).

The decentralization of the state power includes institutional independence of municipal authorities in the fields in which the law guarantees the autonomy and independence of local authority. The new Law defines when the state can interfere with the business of local authorities. The article 108 says that the government is allowed to halt the implementation of the regulation or any other act of the local governance unit if it assesses that the implementation will bring about irreparable damages. It can also cancel or limit the guaranteed liberties and individual rights or collective rights of the citizens or gravely violate the common interest. The Government may also initiate the judicial review of the municipal statute if the statute is not in union with the Constitution or other laws (art. 109); such procedure may be initiated also in case when the act of municipal organ is not in compliance with the municipal statute (art. 110) or is against the law.

The issue of dissolving the municipal assembly is strict under the new Law. Under the 1999 Local Governance Law, the government was allowed to dissolve the municipal assembly and introduce the interim measures if it judges that the local authorities "gravely violate the common interest" (art. 213). This practically gave the Serbian government a wide mandate to dissolve the municipal assemblies and rule directly. This was the case with the municipal assembly of Novi Pazar that was dissolved and kept under the emergency administration for several years. The new Law sets only two reasons over which the Government has a right to dissolve the municipal assembly and introduce the emergency administration: **1)** when "the assembly does not get in session for more than three months"; **2)** "when it does not adopt the statute and the budget within the time frame set by the law" (art. 112). This solution matters since it prevents the Government to dissolve the municipal assembly upon the arbitrary decision made for disagreeing with the policy pursued by the local organs.

The municipality is also entitled to constitutional protection if the government attempts to infringe upon the principles of local governance. The European Charter of Local Self-Government prescribes that "the local authorities are entitled to a judicial remedy in order to provide for free execution of their prerogatives and respect for the governance principles as set in the Constitution or domestic legislation" (art. 11). The municipal assembly thus has a right "to undertake legal actions for judicial review [...] before the court of law if it believes that a particular act violates the rights of the local governance unit guaranteed by the Constitution and law" (art. 122). The same applies when the government makes the decision on the matter under the prerogatives of local organs.

In the view of everything advanced so far, it may be assumed that the Local Governance Law is in agreement with the European Charter of Local Self-Government as regards the respect for the principle of subsidiarity and the establishment of the essential autonomy of the local authorities.

### **3. The Organization of Power at the Local Level**

The local organs are: the municipal assembly, the municipal president and the municipal council, while in the cities there are the city hall, the mayor and the city council (art. 25-47). The assembly is a representative organ which adopts the municipal statute and the assembly operating regulations, the municipal budget and annual financial statement, regulations and other general acts, etc (art.30). The assembly is elected for the period of four years (art.29), and could consist of at least 19 or at most 75 deputies (art.27). The municipal assembly

## **Agenda of the local governance budget**

## **Institutional independence of municipalities**

## **Dissolving the municipal assembly**

## **Local organs**



## ***Municipal president***

## ***Relation: president - assembly - council***

## ***Citizens' initiative, citizens' assembly and referendum***

## ***Council for development and protection of local governance and ombudsman***

must get in session for at least once in three months (art.32), but if it fails to meet in the prescribed period, the Government of Serbia has the right to dissolve it (Art. 112).

It is forbidden that a municipal deputy is employed in the municipal administration or performs a duty on a position on which he/she is appointed by the municipal assembly. While it was prescribed by the previous law that the deputy must not be employed in the municipal administration, this provision prohibits the deputies from being members of administrative and inspecting boards or directors in the public utility enterprises, institutions, organizations and services appointed and dismissed by the municipal assembly upon its founder right. The article 3 of this Law says that if a person appointed to a certain position by the municipal assembly is elected deputy in that assembly, he/she must withdraw from the previous duty.

The president of the municipality is a new institution at the municipal level. Under the previous Law, the chairman of the assembly (who is often incorrectly called the municipal president) was elected among the deputies and could be dismissed in the same way as he/she was appointed (art. 84). According to the new solution, the municipal president is elected for a four-year term on direct election, and has an executive function (art.40). The president presides the municipal council, with the most important function "to execute and takes care of enforcement of decisions and other acts of the municipal assembly" (art. 41).

Since the municipal president cannot be a municipal deputy, it follows clearly that the introduction of the direct election of the municipal president presents an attempt to consistently implement the principle of division of power at the local level. In the analysis of the prerogatives assigned to the municipal assembly the line 11 of the article 30 draws the attention; it says that the assembly "appoints and dismisses the heads of municipal administration upon the proposal of municipal president." The assembly can elect up to 11 members of the municipal council upon the proposal of the municipal president, but if the proposal is rejected twice, the assembly will elect the members of the municipal council independently (art. 43).

A direct election of the municipal president is introduced in order to establish the executive power with clear prerogatives and liabilities at the local level. As shown, the municipal assembly has more power than the president, but the relations among the assembly, the president and the municipal council are not regulated in a consistent way. The first question is whether the president will be able to maintain a successful control over the municipal administration if he/she is not entitled to appoint the heads of administration. Secondly, although the article 41 says that the municipal president has an executive function, it is not clear how it coheres with the function of municipal council that is entitled to "pursue control over the municipal administration, annul or cancel its acts which are against to the law, statute and other municipal acts or decision made by the municipal assembly" (art. 44). Finally, if the assembly majority and the municipal president come from the different political party, there is no doubt that the assembly could try to ignore the president's proposals, but there is a plenty of reasons to believe that this could be a source of dispute between these two institutions. The dispute between the president and assembly would not be resolved easily due to the fact that both sides are elected directly and would most probably refer to the popular legitimacy in their attempt to persuade the other side of their exclusive right to have the final say.

Furthermore, the relation between the president and the council remains unclear. The president is an executive authority at the municipal level, and therefore the municipal council should act as a kind of the president's cabinet. The article 43, however, says that the municipal council is an organ that coordinates the work of the municipal president and assembly, and pursues a controlling and supervisory function over the work of the municipal administration." It should be borne in mind that the proposal of this law, which was drafted by the PALGO center, did not include the institution of the municipal council. This organ was added to the law during the parliamentary debate as a balance to the president. The council acts as a collective organ. This means that the individual members of the council cannot pursue the prerogatives assigned exclusively to the collective organ (e.g. control over the administration or canceling and annulling the administration acts).

As regards the institutions of direct democracy, the Law foresees the citizens' initiative, citizens' assembly and referendum (art. 65-69). The citizens' initiative puts the questions of direct importance for the citizens of municipality, while the citizens' assembly discusses the issues of the municipal competence. In both cases, the local governance organs (assembly or administrative organs) are obliged to respond to the requests raised through the initiative and citizens' assembly within 60 days. Referendum is held by the assembly on the issues under its prerogatives. The referendum decision is valid if it is voted by a majority of electors who took part at the referendum on condition that more than a half of the total number of citizens has voted.

The Council for development and protection of local governance and the ombudsman are the new institutions predicted under the Local Governance Law. The Council is in charge of the democratic influence of the citizens on advancing the local self-governance. The citizens' advocate protects the individual and collective rights and interests of the citizens. It is important that, unlike the other municipal institutions, these two newly introduced ones are not mandatory and it is up to the municipalities to decide if they want to incorporate them into the institutional arrangement. If they decide so, it is necessary to regulate their status and competence by the statutes and other municipal acts. The position of a municipal manager is regulated in a similar manner. He/she is appointed by the municipal president to deal with economic development of a municipality.



**Macroeconomic Topic**

# Investment Map of Serbia

Foreign direct investments in all transition countries have been a very important element for improvement of corporate management in enterprises, GDP growth generation and exports recovery. Inflow of foreign direct investments in Serbia is also perceived as the key instrument of economic recovery, especially in the view of bad situation in domestic enterprises, particularly in the sector of manufacturing and infrastructure. This paper is intended to try to examine the optimal models of foreign direct investments entry in our country through the privatization process on the basis of experiences in other transition countries.

The important question is whether there is any difference between foreign and domestic investments. It might be said that there is no essential difference - as long as the investments are aimed to create a base for healthy and lasting growth of an enterprise, it does not matter where do they come from. However, all transition countries have experienced the lack of domestic capital and consequently, entry of the foreign capital was necessary for restructuring of economy. At first many countries gave different forms of preferential treatment to foreign investments, thus attempting to make their inflow more dynamic, but the trend is to unify the investments incentives regardless of where they come from, and to use more indirect than direct measures to attract investments. The most significant prerequisite is establishment of the appropriate legislative framework and institutions of market democracy.

Although there are different definitions and classifications of foreign direct investments, this paper starts with division into strategic and financial investments. We considered this division the most appropriate since these are the two main ways of entrance of foreign direct investments through privatization process. We considered strategic investor as the one in the same industry as the investment enterprise, with the main objective to improve business of parent enterprise, while financial investor is the one who buys shares aimed to generate profit, either in the form of dividend or capital gain.

On the basis of analysis of privatization process and post-privatization performances of the enterprises in transition countries, we attempted to draw particular conclusions and give recommendations on what would be an optimal way for foreign direct investments entry into particular industries in Serbia. Basically, two conclusions might be drawn:

Firstly, it was shown that, apart from particular infrastructure activities, there are no strict rules on whether the strategic or financial investors are preferable. There are examples of successful privatization through sale of equity shares to financial investors even in case of enterprises in electricity supply sector, as well as in aircraft companies, airports, etc. This obviously denies the opinion that had taken root with us, that only strategic investors could invest in infrastructure activities.

The second conclusion is the following: regardless of the industry they do business in, successful enterprises should rather cooperate with financial than with strategic investor. For less successful companies it is reverse, especially considering that financial investors would not be interested in them. Namely, it was shown that in number of cases the sale of successful enterprise to a strategic investor lead to cancellation or significant modification of its production program and loss of its business identity, while it becomes fully incorporated into the business image and strategy of parent enterprise. In this way many companies which had a chance to survive independently and even win the neighboring markets, practically disappeared. On the other hand, there are many examples of the enterprises taken over by financial investors, which, together with maintaining domestic management and business strategies, became very significant in the region. These are the facts which domestic companies should keep in mind when making decision about cooperation with foreign investors.

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*Foreign direct  
investments are  
necessary for  
economic recovery*

*Foreign or domestic  
investments?*

# Specific Investment Models for Particular Economic Sectors

## Telecommunications

Situation in telecommunications sector at the beginning of transition in all observed countries was similar: poorly equipped and maintained telephony network, relatively cheap subsidized local calls and very expensive international calls, low market penetration level (number of telephones per 100 inhabitants) as compared to the Western average, long waiting period for obtaining the telephone connection (for several years) and its high price, etc.

Consequently, privatization of telecommunication companies was a very important step toward network modernization, improvement in quality of services and improvement of the companies' performance, which also generated significant revenue to the state. The most common privatization method was a sale of shares to the strategic partner, with government's retention of a controlling stake. In the rare cases when the state sold more than 50% of shares, it retained the right of veto in decision-making (the so-called golden vote clause). Sale to the strategic partner was favored over the other privatization method, since the governments considered it the most beneficial for the companies themselves, as well as for the country as a whole. Namely, it has been always assumed that the sale to a successful (western) IT enterprise brings about restructuring of a domestic enterprise, introduction of modern managing techniques, and, as the most important, long-term investments (into purchase of modern equipment, network development, etc.).

Privatization was preceded by division of the formerly integral PTT enterprise into the independent units which deal with traditional postage services, and a unit which operates in telecommunications. Afterwards, a stake, often less than 50%, was sold to the strategic investor. The following step in privatization was, as a rule, distribution of one part of shares to the employed and / or public offering. Consequently, the strategic investors usually entered the telecommunications sector in the second privatization stage, when the state, after having sold one part of shares, decided to sell the rest at the stock exchange.

Privatization in *Telekom Serbia* generally followed this pattern, but stands as an example of not a very successful sale to the strategic investor. The first rule of this kind of privatization, which is transparency and competition among the interested investors, was not observed. In the mid-1997, a 29% stake was sold to the Italian *Telecom Italia* and a 20% to the Greek *OTE*; they are assumed to have paid the total of DEM 1.6 billion. The contract anticipated that *the Telekom Serbia* will keep monopolistic position in the field of fixed telephony till 2005. The foreign investor also pledged to improve technical and technological performances of our operator and to get 3% of *the Telekom* revenue on the basis of know-how transfer. In summer 2005 5 years will have passed since the sale and there are many talks about reorganization of the enterprise considering that none of the partners is satisfied with cooperation. This especially refers to *Telecom Italia*, which is said to plan to sell its share. Our state also accuses foreign investors for not sticking to the agreement and for not investing enough into development of *Telekom*, which is one of the key reasons for relatively low penetration level (26%) on the fixed telephony market. Furthermore, the Serbian government still holds controlling stake in the enterprise and is expected to offer it for sale in the upcoming period. Prior to this, the enterprise is expected to be divided into several independent units, which would operate as mobile and fixed telephony providers, and perhaps Internet providers.

The other mobile operator, *Mobtel*, is also state-owned, i.e. the public enterprise *PTT Srbija* is a joint owner with *the BK Trade* enterprise with its head office in Moscow. In recent months it has turned out that there have been some problems with its business activities and with the real stake of *the BK Trade* in the enterprise, and thus, *Mobtel* is gone bankrupt at present, while several foreign telecommunication companies are interested in purchase of one part of shares.

**Liberalization and privatization of telecommunications sector are desirable**

In the view of non-satisfactory level and price of services in telecommunications sector, as well as of large-scale investments necessary for modernization and expansion of the network, liberalization in the telecommunication market is desirable, together with the entrance of foreign investors. Namely, there is a reasonable assumption that good business results of domestic companies come about from their monopolistic, i.e. duopolistic structure in the telecommunication market. High income is largely generated owing to the high price of services that will certainly be paid by the consumers since they have no alternative.

### ***Energy system***

Before transition, energy systems in all countries had relatively similar characteristics and problems as the telecommunications. Low subsidized electricity price, investments from the state budget which considerably dried up with transition, management and business operations on non-commercial basis, were only some of characteristics. This is proved by the fact that some countries, especially those of former USSR, and our country as well, continue to face the problem of shortages of electric power.

Most of the countries have initiated privatization of their energy systems in recent years, since it was prescribed by the pre-association strategy for the candidates for the EU membership. Prior to privatization, the formerly coherent enterprise was divided into two or three independent units that operate with production, transmission and distribution of electric power.

Privatization, however, has not passed without problems; the most important ones refer to insufficient interest among the foreign investors, as well as disapproval of the public opinion. Thus, in the case of Lithuania, after the petition was signed, the whole process of division and privatization of national energy system had to be stopped.

Insufficient interest among the investors largely results from the fact that the network requires abundant investments, with small prospects for profitable business due to the low price of services and relatively lower purchasing power of the population. Foreign investments were mainly directed toward the energy production activities. Majority of investments were made by strategic investors who often acquired the majority interest in the purchased companies. Also, there are several examples of privatization by financial investor.

Due to bad management, insufficient investing and huge damages made in the 1999 bombardment, the energy system in Serbia is, as it is well known, in a condition that requires broad restructuring. The electric power price is still pretty low relative to the world standards, and, with regard to the low population's purchasing power, is projected to liberalize gradually over a few years. Large-scale investments into complete overhaul of existing plant, network and replacement of existing equipment are necessary. Before initiating privatization process, it is necessary to divide the energy production system from electricity distribution, which was done by other transition countries. Only the units divided in this way could be privatized. With regard to the aforementioned reasons, it will be hard to attract foreign investors, and therefore larger investments could be expected only after the raise in electricity price and recovery of economic activity, which will affect the demand, and after domestic consumers come to habit to pay their power bills regularly. In respect of the nature of this activity, mainly the strategic investors would be interested in investing.

### ***Mining and metallurgy***

Metallurgy used to be the economic mainstay of all communistic economies. It was insisted on as large as possible production volume and therefore a lot was invested into the capacities; also, a large number of workers were employed in this sector. Because of this, the outdated capacities and huge redundant labor stand as the major obstacles for restructuring of these companies. Furthermore, in most transition countries including ours, such enterprises bear the major part of foreign debt, which additionally burden both the economy and population; it is also the problem in terms of attracting the foreign investors. Sale to the strategic investor is

***Division of energy  
system into  
independent units***

**Restructuring in the metallurgy complex through cooperation with strategic investors**

usually comprehended as disburdening of a state and as an opportunity for implementation of a real restructuring. In addition, small number of these companies work successfully and thus they will hardly generate much interest of financial investors. Generally, for those reasons, such enterprises were not very attractive for foreign investors. Successful transition countries experienced larger inflow of investments, as well as the non-ferrous metallurgy, as opposed to the ferrous metallurgy.

Former Serbian giant metallurgy complexes, such as *Sartid* and *RTB Bor*, completely fit into this pattern. They left the unused capacities, enormous debts and huge redundancies from the time when they were among the biggest industrial producers and exporters in Serbia. *RTB Bor*, except for the objective problem of fall in metal contents in the ore which caused the production to gradually become less profitable, faces great problems in its business activities also due to the activities of the former management which used to deal with illegal activities and abuses in the enterprise. Over the several previous years, *Sartid* has continued to be one of the biggest exporters in Serbia, but, owing to the exports of the iron ore, which is not extracted in our country, it also used to be the biggest Serbian importer, thus largely contributing to the foreign trade deficit. In addition, the foreign debts accumulated over the previous decades were guaranteed by the state and now stand as a significant part of the state's foreign debt.

Sale of these enterprises to the strategic investor is considered as the only possibility for their rehabilitation. But it is necessary that the government initiate restructuring process prior to privatization and to take social care of one part of redundancies, as well as to initiate division of these giants into independent units. At present these enterprises cooperate with foreign partners, *RTB Bor* with *Daimler-Chrysler*, and *Sartid* with *US Steel*. They are seen as potential partners for some organizational units in these enterprises, but final agreement on sale will certainly require longer negotiations and great zeal of government officials.

Situation in other companies of the metallurgy sector in Serbia is similar: only a few of them achieve positive business result and it is not very likely that financial investors would be interested in their shares. Sale to strategic investor should give the opportunity to these companies to engage their capacities and extend their production program.

### **Chemical and petrochemical manufacture**

Chemical manufacturing is generally an attractive field for foreign direct investments. During communist period, large investments were made in this sector, especially in production of basic chemical products, and today it faces insufficiently used capacities and great redundant labor. However, investments into working capital and reconstruction and modernization of the existing capacities, together with skilled labor, offer the opportunity for the foreign investors to set up a profitable and quality production in relatively short term. Namely, during the communist period, these sectors were solidly developed in technological sense, with strong research and development. There are various opportunities for investing, considering that the sector itself encompasses a variety of activities, such as pharmaceutical and cosmetic products, plastic and rubber, basic chemical products, chemical fertilizers, gas and oil processing, etc.

It is hard to draw a clear conclusion from the experience of other transition countries about the preferable modality of foreign investors' entry into chemical industry. This results in part from the fact that it encompasses diversity of sectors, both heavy and light industries, and that it manufactures both consumption and intermediate goods.

Privatization of oil refineries would be specific considering that successful CEE companies often appear as strategic investors, as was the case with the Slovak *Slovnaft* and Bulgarian *Neflochim*. Western European investors were also very interested in becoming strategic partners in refineries in this region owing to the capacities and good access to oil pipelines which start from Russia and Central Asian countries. Furthermore, domestic market also offers good penetration possibilities, primarily through development of supply network.

**Chemical industry is potentially attractive for investments**



However, privatization through the sale to strategic investors proved not to be the only way of successful restructuring of these enterprises. In the companies which have already had good business performance, sale of shares to financial investors was beneficial as a way to obtain the necessary financial assets, which were used for modernization of the existing and purchase of new equipment and development of supply network. Successful business performance of these companies, such as Hungarian *MOL*, was confirmed by the fact that they not only started setting up their own gas stations throughout the transition countries, but also buying their refineries.

A great number of foreign petrochemical companies have started or plan to start soon setting up the gas stations throughout Serbia. Foreign investors might be expected to start entering into domestic refineries. It would be good, prior to sale, to carefully examine the possible sale modalities and whether there is a chance for the enterprise to continue working successfully. In that case, sale to financial investors could be a good way for the enterprise to acquire assets for modernization and expansion, and at the same time to keep quality domestic experts in the management.

### ***Machinery and electronics***

Machine manufacture used to have the largest share in the total economic activities, as well as the greatest share in employment among the transition countries. Over-dimensioned capacities, great labor force, bad management, and in many cases non-competitiveness on the world market (often due to different technical standards), were an important obstacle for restructuring of these companies. The solution has often been found in division of the giant companies into smaller independent units, which were subsequently privatized, more or less successfully through different methods.

A trend of intensive inflow of FDI into the electronic sector has been observed in recent years, especially in advanced transition countries. However, it is often about the greenfield investments, while there are not many examples of taking over domestic companies through the sale to strategic or financial investors. Many domestic companies, due to inability to carry out restructuring by themselves, have bankrupted.

In Serbia, this sector is not in much better position than those previously described. Many enterprises found themselves in a vicious circle which is hard to leave. Unused and outdated capacities and redundant labor overburden the production with high costs, and therefore are not competitive, both in the terms of price or quality, on domestic and foreign markets. An opportunity for recovery lays in connecting with the well-known world producers in the same industry, which could be beneficial for domestic market that would be supplied with quality products at lower price than the imported goods. In addition, the foreign trade balance deficit would be considerably lowered considering that a significant part of imports consists of the machinery industry products of both consumer and capital goods.

On the other hand, there are several companies with good management and production program, which could become competitive with assistance of additional capital. In their case, a sale of shares to financial investors would be more appropriate solution than a sale to the strategic investor.

### ***Car industry and trucks***

Car industry had the greatest inflow of foreign direct investments in all transition countries and almost all big world producers built up their plants throughout Central and Eastern Europe. At the beginning, arrival of these companies was largely related to privatization of domestic car producers through the sale to strategic investors. This was followed by greenfield investments, which were at first associated to car construction or production of particular components, while more and more at present the most is invested into research and development. The host countries are keen on big car companies since their arrival has a positive impact on the whole economy. Foreign strategic investor carries out successful restructuring of a local enterprise and, in spite of discharging a large number of redundancies, still many

***Solution for machinery  
and electronic  
industry***

**Foreign investments  
are not very common  
in clothes and  
footwear industries**

employees remain dependant on this sector, directly or indirectly. With expansion of the business, new workers are being employed, many of them are young experts who deal with engineering and R&D. The privatized companies have a large share in the GDP, while their production is mainly export-oriented. *Skoda*, for example, exports about 80% of its production, which accounts for even 10% of the Czech commodity exports. All these effects are expressed indirectly, too, since many domestic companies have an opportunity to become the suppliers of a big and successful foreign corporation, where they can learn a lot at the same time.

As for the biggest Serbian car producer, *Zastava*, one stage of restructuring related to reduction of the employed and disintegration of particular units, was carried out in the course of 2001. There have been many discussions about the sale of *Zastava* since early 1990s, and various Western European and Far East companies were mentioned as potential partners. Unfortunately, all the negotiations failed. It seems that the chief obstacle was disagreement on how to resolve the problem of redundancies. The companies mentioned as potential investors, such as the Daewoo, Renault or Fiat, were giving up one by one, and started opening factories in the neighboring countries. Sale of *Zastava* to a strategic partner remains the only chance for its recovery and it would be desirable if it were resolved as soon as possible. Similar recommendations refer to the other transport vehicles producers in our country, since none of these companies can be expected to become competitive otherwise.

### ***Textile and clothes, leather and footwear industries***

These sectors were not especially attractive for foreign investors in most transition countries. Cooperation with foreign companies exists, being rather intensive in particular cases. It is usually about the cooperation related to manufacturing, enriching, etc. attracted by relatively cheap and quality labor. This kind of activities overflow these countries after disintegration of SFRY because our companies, especially those which dealt with clothes manufacturing, used to have long-term and successful cooperation with foreign companies, mainly in form of loan jobs, but also exported a lot by themselves to the Western markets. Possibility of different modalities of cooperation is one of the main reasons for not having many examples of foreign direct investments. Although cooperation with familiar foreign enterprise can be beneficial since it provides jobs to domestic enterprise, disadvantages refer to the fact that essential restructuring is not undertaken, such activities are easily transferred from country to country, domestic enterprise invests less in building up its own image and into research and development, etc.

In our country there are many companies which have built up a trademark distinguishable not only on domestic market, but also on the markets in some neighboring countries. The quality of textiles and design enable penetration in both regional and EU. These companies are mainly in private ownership and could be holders of further restructuring in this sector in Serbia. Namely, state-owned companies are overburdened with high expenses due to redundant labor and unused capacities. They sometimes try to resolve their situation through doing loan jobs for foreign partners, but the risk in such business refers to the fact that it is not about long-term cooperation and it is uncertain for how long it will last. Long-term development strategy in these companies could be based on cooperation with successful, mainly private companies or on independent restructuring which would primarily include creation of distinguished trade mark and its positioning on the market. The companies, however, usually do not have enough capital for the latter solution, so sale to the interested financial partners, as an alternative for bank loans, could appear as a good solution.

### ***Food processing industry***

Food processing industry is one of the most important sectors in transition countries. A large share of labor is directly or indirectly incorporated in it; agriculture and food processing industry still have a large share in the GDP, and they are also important for strategic reasons. Foreign residents usually do not have right to possess land in transition countries, and therefore agricultural land is in local ownership.

But, food processing industry and beverages and tobacco manufacture were very attractive for foreign investors, and in some countries the highest inflow of foreign investments was registered in these activities. The most common were investments in the companies which deal with production of tobacco, beer and other alcoholic beverages, as well as in sugar refineries and vegetable oil refineries. Foreign investors were attracted both by their wish to penetrate local market, and by possibility to achieve the production, using domestic raw materials, which will be distributed on the neighboring markets and around Europe and world.

Investments were largely beneficial for companies since they carried out successful restructuring and started doing business profitably. Some of them became significant in the whole region. Although they export to the EU market, their expansion is limited by the EU barriers for all non-members.

With respect to privatization model, there is a very evident different impact of financial and strategic investments in this sector. This is confirmed by numerous examples, some of which have been already advanced in this paper.

When it is about the sale of an enterprise to strategic investor, in most cases the enterprise became completely incorporated into the business strategy and production program of parent enterprise. It meant not only changes in the enterprise management, but also canceling of the existing production program, which is replaced with the program chosen by parent enterprise. Thus, domestic enterprise and its products completely lose their distinctiveness. Our enterprise should take into account such experiences when making decision on cooperation with strategic partners. The warning example is a decision of the French enterprise *Danone* to close up biscuit factory previously bought in the north Hungary, which had a hundred-year tradition and distinctive products in Hungary.

On the other hand, there are numerous examples of successful privatization through financial investments, in which the enterprise, with inflow of fresh capital, successfully improved their business performances and penetrate a significant part of not only domestic market, but also the markets in other transition countries. This is a good way of privatization in the already successful companies which have good positions on domestic market. This path is recommended to domestic successful companies rather than cooperation with strategic investors. Our successful confectionery companies, dairies, breweries, vegetable oil refineries, sugar refineries and others should keep in mind that the sale to strategic investor would probably mean loss of their names, and their distinctive products would not be produced any more.

### **Public utilities**

Different public utilities such as water supply, sewage, urban sanitation, heating, etc. are the industries of common interest and it is traditionally comprehended that they should not be given to private entrepreneurs for administration. Such an attitude proved as mistake, however, and privatization process in such enterprises is underway worldwide, since the practice showed that they have much better business performances when they are managed by private entrepreneurs than when they are managed by state bodies.

This is especially the case in transition countries, where such companies have never worked on commercial basis, but dealt with subsidized prices and bad management, whereas after initial investments into equipment and capacities there were no further investments. It is unlikely that these companies would be able to recover by themselves, because they do not have a culture of profitable business performance. Furthermore, recycling, which is highly developed in the EU, hardly exists in transition countries. Consequently, the best solution for these companies is privatization through cooperation with the strategic investor. The foreign enterprise would oblige not only to improve management and introduce new managing techniques, but also to invest into expansion and modernization of capacities. As it was mentioned earlier, investments in these activities are not much intensive.

These services function very badly in Serbia, suffering from the aforementioned problems. Foreign investors would be an excellent way for resolving these problems, but it would require market prices. The only exception could be made in case of urban sanitation, in which the foreign investors might be interested to invest due to possibility to profit from recycling.

***Large inflow of investments in food processing industry***

***Development of public utilities through cooperation with strategic investors***

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Output and services

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Foreign trade

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Fiscal and monetary policy

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## Mackroeconomic Review

# Slower Inflation Growth and Increase in Output

## Prices

Macroeconomic stabilization measures fully affect a significant deceleration in inflation. Retail prices and consumer price index continued to grow at slower pace in Serbia in the first quarter of 2002. Retail prices in March were up 0.8% month-to-month, while consumer price index rose by 1.1%.

With regard to the groups of products, agricultural and food products recorded relatively higher growth (6.5% and 1.2% respectively) due to the increase in the prices susceptible to seasonal effects. Thus, the highest cumulative growth rate in the prices in the first quarter was recorded in agricultural products (9.7%).

Prices of industrial products in March increased by 0.5% on the average. Due to a few significant increases in the price of services as of beginning of the year, the total growth rate in the first quarter amounted to 7%, while the total growth in the price of goods was 1%.

Out of the projected corrections in the prices of electric power, public utilities and a part of transport services which are an integral part of macroeconomic policy stabilization measures for this year, only a few corrections were made in the first quarter, referring to the particular components in public utilities and a significant correction in the price of rail transport.

A comparison in dynamic of growth in prices in Serbia in the first quarters of 2001 and 2002 with the trends of the same indicator in other countries in the region (Table 1) shows that as for the inflation level, Serbia is significantly getting closer to the former Yugoslav republics which are in the advanced or even final stage of transition.

Higher growth in prices in Slovenia results from the price corrections after the European countries changed their currencies into the Euro because the Slovenian economy closely cooperates with these countries.

Inflation in Serbia in the first quarter was 2.4% although the price of electric power remained unchanged, while only the prices of some public utilities were changed. This result on one side, together with devaluation in industrial producer prices by -1.2% on the other (remember that the cumulative rate in industrial producer prices in the first quarter of 2001 averaged very high 8.5%) indicate that the inflation level in the next quarter will also depend on whether and to what extent the price of electric power is to increase.

Consumer prices in March grew faster than retail prices (1.1%). The total consumer prices growth was mainly contributed by price adjustments in the group of education, culture and leisure (6.5%) and in the group of food products (1.5%) which largely resulted from seasonal fluctuations in the price of vegetables. The prices of consumer goods in March were up by 1.1% on the average relative to February, or by 26% year-on-year. At the same time, price of services in March rose by 0.8% on the average compared with the previous month, or by even 66% year-on-year. Although the price of services grew at slower pace in March than the price of goods, in the view of cumulative growth in these prices in the first quarter of 2002, it follows clearly that the last year's dynamics of faster growth in the price of services is continued. Since the beginning of the year, the price of services has increased by 12.8% on the average, while the price of goods has recorded a growth by 0.3% over the same period.

A few increases in the prices of particular public utilities (running water and heating) and transport services (rail travel), which occurred in the last three months seemed interesting for assessment in terms of to what extent the growth in these prices affects the total consumer prices index. A basic inflation indicator was calculated after excluding the categories of administratively determined prices from the consumer price basket. The estimated basic inflation, measured on the basis of consumer price index, in the first quarter amounted to 1.2% (Table 2). It would be interesting indeed to calculate the share of basic inflation in the total retail prices index, which is planned for one of the next issues of the Review.

**Table 1 - Cumulative growth in retail prices in the first quarter**

	I-III 2001	I-III 2002
	<i>In percents</i>	
FR Yugoslavia	7.3	2.5
- Serbia	7.6	2.4
- Montenegro	6.1	3.2
Macedonia	-	0.9
Croatia	0.7	1.3
Slovenia	2.5	3.1

**Source:** Bureaus of Statistics in the observed countries.

**Table 2 - Monthly indices**

	Weight (%)	I	II	III	I-III 2002
CPI	100.0	99.5	101.2	101.1	101.8
Housing	15.7	101.6	105.0	100.1	106.8
Electric power	7.8	100.0	100.0	100.0	100.0
Public utilities	1.7	106.0	129.4	102.5	140.6
Housing <sub>B</sub>	6.2	102.4	104.8	99.4	106.2
Transport and PTT services	3.5	101.3	100.7	100.1	102.1
CPI <sub>B</sub>	13.0	99.3	100.8	101.2	101.2

**Note:** CPI<sub>B</sub> stands as the basic inflation indicator. It is calculated on the basis of consumer prices index excluding prices of electric power, public utilities and transport and PTT services, since the prices in this group of services and goods are not yet fully liberalized. 13.0% of goods and services are excluded from the consumer's basket.

**Source:** Calculated on the basis of monthly data on consumer prices issued by the Republic Bureau of Statistics.



## Wages

According to the figures of the Republic Bureau of Informatics and Statistics, the average net wage in Serbia in March was YuD 8.204, displaying a growth by 3.5% relative to the previous month. Consumer prices grew by 1.1%, hence the average real wage is higher by 3.6% compared with February.

Trends in wages in the first quarter of 2002 were largely in compliance with production trends. In March 2002 the average real wage decreased by 4.6% year-on-year, owing to the significant drop in January. At the same time, industrial production level in the observed period was lower by 1.5%, while, according to the latest available figures, in the first two months of this year there was a decrease in activities in construction, transport and tourism year-on-year.

This indicates that the wage policy objectives in this year are being attained i.e. trends and level of wages result from the real volume of the achieved economic activities and efficiency of business performance. But, this fall did not drastically affect citizens' standards of living since in the second half of 2001 a significant increase in wages was achieved and, after a drop in January, wages rose in real terms again in the following two months. The average real net wage in March was up by 31.5% relative to June 2001, while the consumer prices grew by 12.8%.

The average nominal gross wage in March was YuD 11.845, displaying an increase by 3.8% relative to the previous month or by 48.9% compared to June 2001.

Net wages in economy in March rose by 4.1%, while in non-economic sector this increase was twice as slow, being 1.9%. Faster increase in wages in economy is estimated to result in part from a decrease in number of employed in socially-owned sector of economy, while employment increased in non-economic sector.

## Labor market

According to the data of the Republic Bureau of Informatics and Statistics, employment in socially-owned sector in Serbia in March was 1.487.983, which is by 5.3% less relative to the year-earlier figures. General decrease in employment in socially-owned sector is contributed by faster decrease in employment in economy. In March, employment in economy dropped by 6.6% relative to the 2001 average, while employment in non-economic sector has been increasing, thus being higher by 3.3% relative to the 2001 average.

Registered unemployment rate slightly increased from 27.86% in February to 28.12% in March. Number of employed in March reached 799,500 persons, which is up by 4% relative to the 2001 average.

Number of vacancies is increasing. In the period January - March a total of 126,000 vacancies was registered. Ratio of initiated employment to the number of vacancies in the first months of 2002 significantly improved relative to the previous months, being 84.1%. This trend implies the initiated process of more dynamic activities in a part of healthy entities, while the increased initiation

of employment in the coming months could generate larger employment. This would alleviate the outstanding problem of unemployment and amortize expectations of pessimists in terms of success of a reform.

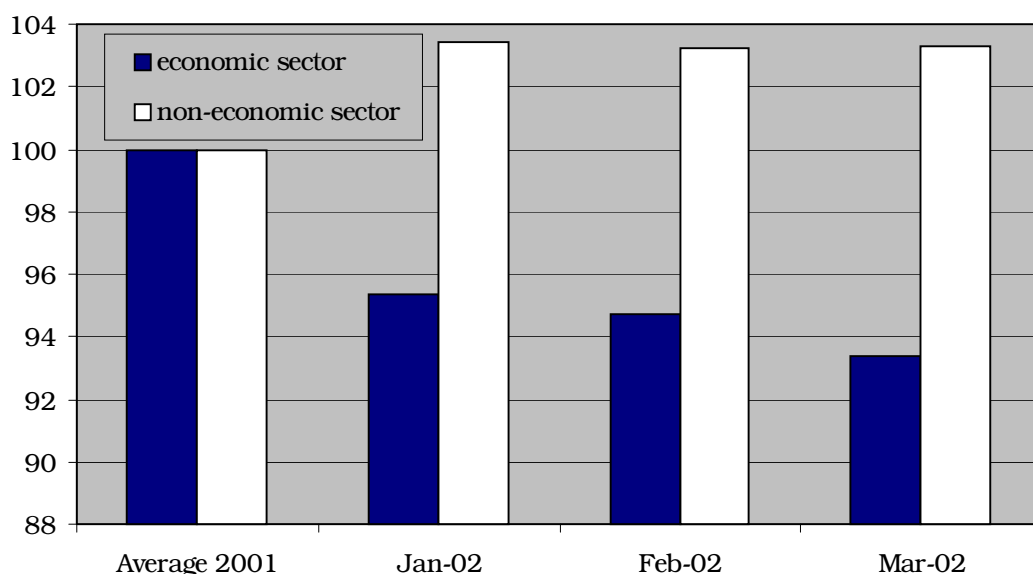
The Republic Bureau for the Labor Market prepares a program for training of the unemployed registered at the Bureau, which will encompass over 10,000 persons.

The Agreement of improvement of work of the Socio-economic Council of the Republic of Serbia signed among the Government representatives, Employers' Union and three trade unions is a positive step, aimed at establishing and successful conducting of a social dialogue among the social partners at the labor market. All the more so since it was confirmed that the Council deals with macroeconomic issues related to privatization and structural adjustment and for overall labor market policy.

## Output and services

At the beginning of this year, a volume of total supply was determined by a positive upward trend in the area of overall industrial production and decreased real volume of construction and tourist services. In general, in the first quarter of 2002, the level of domestic supply was lower as compared with the same period in the previous year.

Indices of employment in economic and non-economic sector in Serbia



	Output	Construction (effective working hours)	Turnover (current prices)		Stocks (current prices)	
			Retail trade	Wholesale trade	Retail trade	Wholesale trade
	$\frac{\text{I-III 2002}}{\text{I-III 2001}}$	$\frac{\text{I-II 2002}}{\text{I-II 2001}}$	$\frac{\text{I-III 2002}}{\text{I-III 2001}}$	$\frac{\text{I-III 2002}}{\text{I-III 2001}}$	$\frac{\text{I-III 2002}}{\text{I-III 2001}}$	$\frac{\text{I-III 2002}}{\text{I-III 2001}}$
FR Yugoslavia	95.9	83.9	152.0	129.0	119.0	119.0
Serbia	96.7	82.1	157.0	127.0	117.0	116.0
Montenegro	84.8	105.6	102.0	166.0	159.0	147.0

On the other side, a high real growth in retail trade turnover indicates significantly higher level of demand relative to the domestic supply, which was, in all likelihood, realized on the basis of population's income gained out of the main activity and savings from the previous period. Relatively high turnover was obviously provided from the imports owing to liberalization of international economic relations. It is projected to have a positive impact on faster resolving of problems in domestic production i.e. reaching the appropriate level of efficiency.

De-seasonal index of industrial production in the first three months of 2002 trends upward. De-seasonal index in March recorded a growth by 3.0% relative to the previous months.

At the level of FR Yugoslavia, physical volume of output was up by 12.7% in March month-to-month. All three sections recorded a growth: mining and quarrying (1.3%), manufacturing (14.9%) and electricity, gas and water supply (8.2%).

Yet, industrial production in FR Yugoslavia in the first quarter of 2002 was down by 4.1% compared with the same period of the previous year. This drop was contributed by decrease in production in some branches of manufacturing (textile, wood processing, metal complexes) and decrease in electricity, gas and water supply.

With regard to the regions, industrial production was up by 12.5% in Montenegro in March, while in Serbia it rose by 12.7%, - in Central Serbia by 10.1% and in Vojvodina by 18.6%.

Total industrial production growth in Serbia in March relative to the previous month is the same as the FRY level (12.7%). With regard to production by destination of consumption, all three areas recorded the growth relative to the previous month. The highest growth was registered in production of intermediate goods (13.8%), followed by consumer goods (11.5%) and capital goods (8.5%). All the fields of production (according to the *Classification of Economic Activities*) with the 5% or higher share in the total output recorded growth: manufacture of food products and beverage by 13.6%, manufacture of textile by 7.8%, manufacture of chemicals and chemical products by 21.5%, manufacture of rubber and plastic by 4.9%, manufacture of other mineral products by 30.7%, manufacture of basic metals by 25.4% and electricity, gas and hot water supply by 6.4%.

Industrial production in Vojvodina increased by 18.6% month-on-month. Section of mining and quarrying recorded a growth by 19.0% and manufacturing increased by 19.3%, while the section of electricity, gas and water supply dropped by 37.8%. As compared to the year-earlier figures, the following results are obtained: mining and quarrying was down by 8.3%, manufacturing by 2.5%, while electricity, gas and water supply rose by 136.6%. Two fields with the largest share recorded a growth relative to the previous month: manufacture of food products and beverage by 9.2% and manufacture of chemicals and chemical products by 19.5%.

Retail trade turnover in FRY in the first quarter of 2002 is larger by 52% in current prices (Montenegro 2% and Serbia 57%) year-on-year, while in constant prices it grew by 29%. High real retail trade turnover growth in Serbia at the beginning of this year shows that, in spite of drop in real wages, a significant increase in population's personal consumption was achieved. This is estimated to result from real growth in other sources of population's income including the income earned in gray economy operations, as well as spending of savings from the previous period. This implies a significant general increase in population's standards of living at the beginning of the year, as well.

Retail trade stocks of goods in current prices at the end of March stand at the level of stocks achieved in the late February 2002.

Wholesale trade turnover in FRY in March relative to the previous month is up by 9% in current prices and by 8% in constant prices. Wholesale trade stocks of goods at the end of March are up by 2% in current prices compared to the stocks at the end of February.

Real volume in construction, measured by the achieved effective hours of work decreased by 16.1% in FRY and by 17.9% in Serbia in the first two months of 2002 relative to the same period the previous year.

In the first two months of 2002 number of tourist-nights catering accommodation facilities decreased by 9.0% on the territory of FRY and by 11.7% in Serbia.

### Foreign trade

Preliminary data on the volume of exchange between Serbia and other countries indicate that commodity exports in March were valued at US\$ 145 million, which is down by 19.6% year-on-year (measured in nominal US\$). As for the exports achieved in the first quarter of this year, it is down by 1% relative to the same period the previous year. Commodity imports also dropped and were valued at US\$ 362 million, which is by 12.4% lower compared to

Agriculture, forestry and fishery			Tourism		
Total	Sale	Purchase	Arrivals	Nights	
I-II 2002	I-II 2002	I-II 2002	I-II 2002	I-II 2002	
I-II 2001	I-II 2001	I-II 2001	I-II 2001	I-II 2001	
I-II 2001	I-II 2001	I-II 2001	I-II 2001	I-II 2001	
121.0	128.0	109.0	95.5	91.0	FR Yugoslavia
123.0	129.0	113.0	95.3	92.0	Serbia
84.0	119.0	78.0	98.3	83.3	Montenegro

### General economic indices

March 2001, but with regard to the period from the beginning of the year, commodity imports were up by 2% year-on-year.

With regard to the regional structure of foreign exchange, there are some evident differences between Central Serbia and Vojvodina. The economy in Vojvodina shows better export performances considering that it recorded a significant increase in the value of commodity exports (by 20% year-on-year). On the other hand, in the enterprises in Central Serbia, commodity exports value dropped by 10% compared to the same period in 2001 (exports in March are even 30% down year-on-year). It is clear that socially-owned enterprises in Central Serbia face huge problems, which would continue to have unfavorable impact on their export opportunities, unless they are restructured and privatized, but this process is inexcusable is late.

There are also great differences with regard to the regional orientation of exports: exports in Vojvodina are mainly directed toward transition countries (about 60%, as compared to the 40% directed toward developed countries), while commodity exports in Central Serbia are directed toward developed countries (55-55%, relative to the about 40% exported to transition countries). Our country also faces transitional stratification

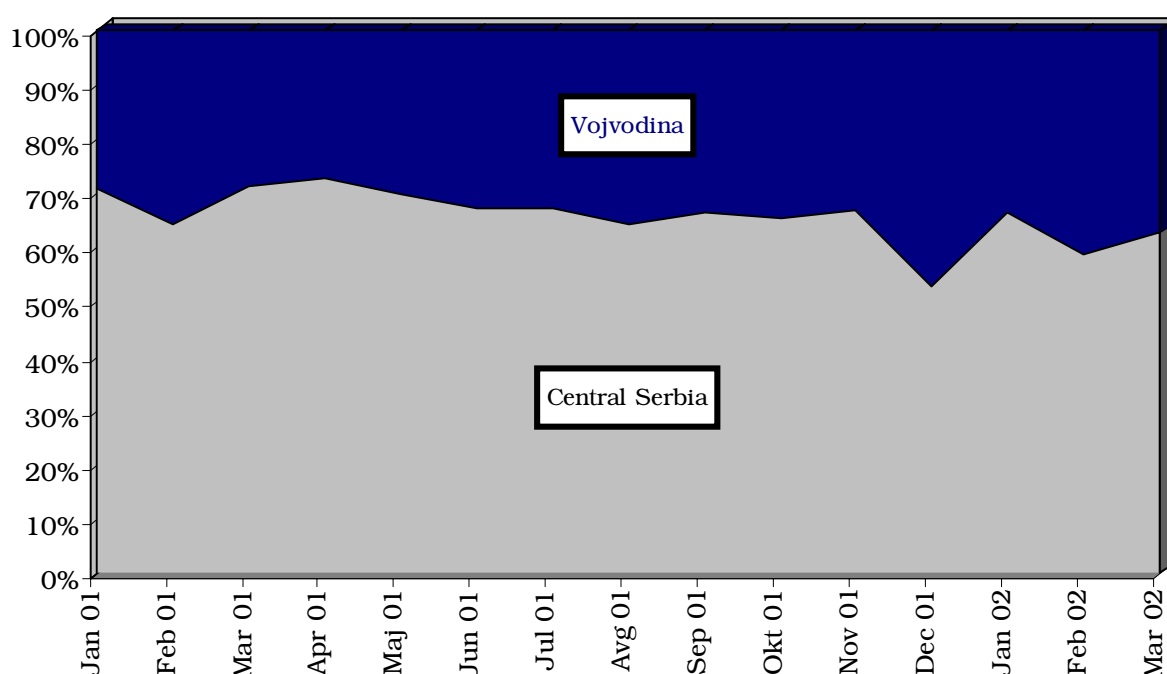
experienced in other transition countries, as well, in which the economy in the regions geographically closer to developed countries achieves better performances than the other parts of the country. Of course, geographical position is only one possible explanation for relatively good achievements in the Vojvodina economy.

In the view of the agreements on free trade with many transition countries, as well as the announced establishing of free trade area in Southeastern Europe, our enterprises will have an opportunity for easy access to the markets in the region. The market in our current state is too small for many enterprises due to the decreased volume of economic activities, small population and their modest purchasing power. Entry into the markets in the region could therefore serve as a good way for prospective enterprises to improve their business performances since these enterprises will have the opportunity to achieve the economies of scale and engagement the capacities, while the increased competition will have a positive impact, too.

When it is about foreign exchange with the European Union, preferential treatment enjoyed by the Western Balkans countries potentially offers great opportunities to these countries for increase of exports. However, revocation of customs duties is obviously not enough a reason for access to the EU market due to the still numerous barriers related to technical, ecological and other standards, and also considering strong competition on that market.

In the present structure of foreign exchange, Serbia has a deficit in trade with most countries, except for Macedonia and Bosnia and Herzegovina. This deficit is especially large in exchange with Russia, primarily due to exports of crude oil and gas; in the first quarter of 2002, the deficit amounted to over US\$ 170 million. As for commodity exchange with other transition countries, this figure is considerably lower, but in those cases the value of imports is several times higher than the value of exports. The preliminary figures, however, imply an encouraging trend, namely, in all transition countries, except Slovenia, the surplus is up,

Participation of Central Serbia and Vojvodina in the Serbian commodity exports



while the deficit shows a declining tendency or stagnation relative to the corresponding period the previous year.

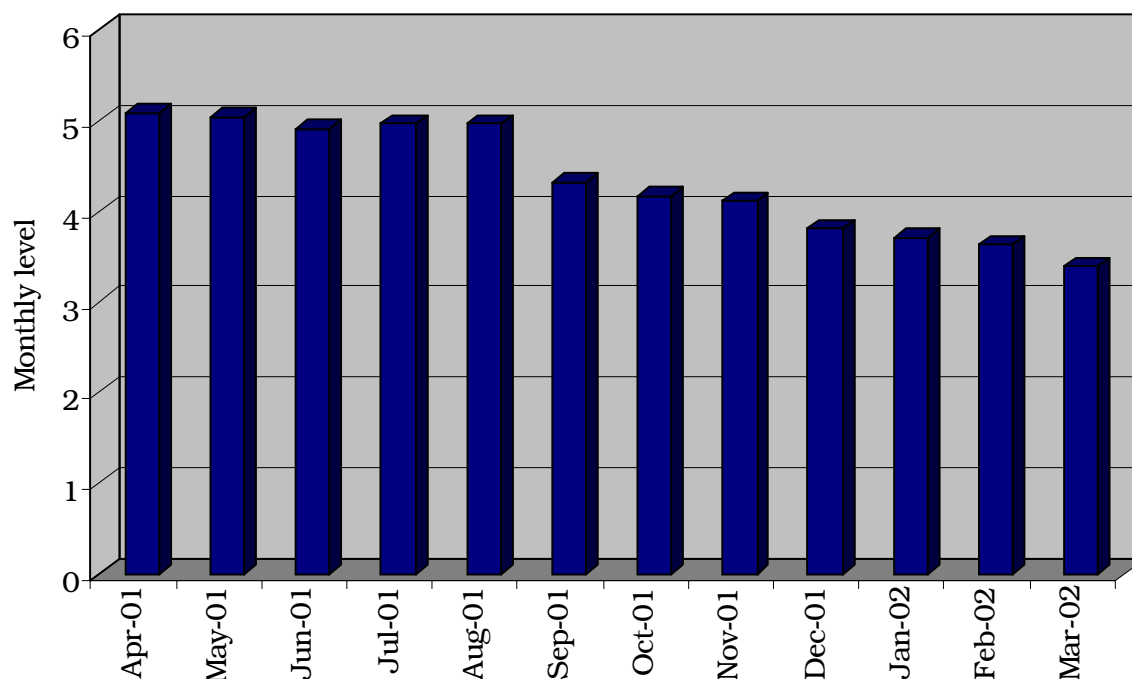
### Monetary and fiscal policy

Money supply at the end of March was YuD 75.2 billion, displaying an increase by 4.47% relative to the end of February. Primary money increased on two basis: a credit to the budget of the Republic of Serbia in the amount of YuD 500 million and net effect of foreign currency

transactions in the amount of YuD 2.78 billion. The structure of money supply in March also changed: cash money supply decreased by YuD 861 million, while deposit money grew by YuD 4.08 billion. Money supply share in M1 in March dropped from 42.01% to 40.03%.

The NBY discount rate is set at 11% per year as of April 1, which is the first time after several years that the NBY establishes the discount rate at annual level. This is an important informational signal which indicates the expectation to the other economic actors that the inflation will remain under control, while interest rates should be reduced as well.

Trends in short-term securities interest rates on the Belgrade Stock Exchange



Weighted interest rate on short-term securities on the Belgrade Stock Exchange in March was 3.39% per month. This points to a slight decrease in interest rate relative to February when it averaged 3.63%, probably owing to the fact that inflation settled down in the first quarter of this year. Considering the low inflation and stable exchange rate, interest rates are high. It is one of the problems that prevent economic subjects to borrow with the purpose of investing in increase in production volume. But, majority of socially-owned economic sub-

jects also have others, very significant problems related to illiquidity, high production costs, redundant labor costs, uncompetitiveness and outdated programs which prevent them from borrowing. They are waiting for initiation of a broad restructuring and privatization process, which is, according to our estimations, inexcusable late.

A measure that should affect decrease in interest rates is the announced canceling or reduction in taxes on financial transactions. In order to achieve desired reduction in interest rates, however, it is necessary to establish a legal system which would provide full protection of creditors and thus reduce the danger money, which is still built up in the interest rate.

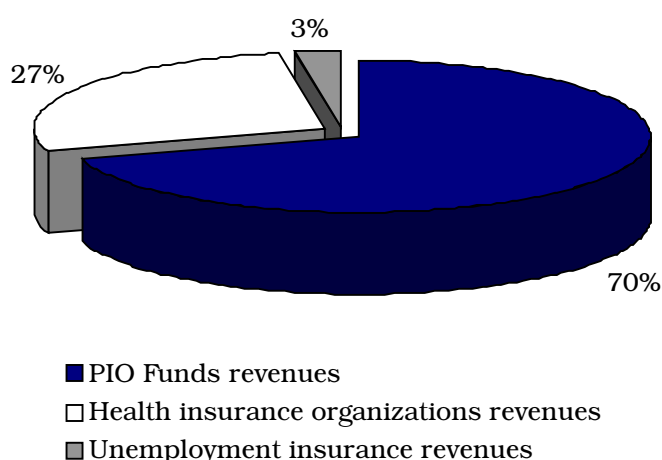
Gross collection of public revenues in March reached YuD 39.67 billion, i.e. it is up by 10.56% relative to February. Collection of budget revenues in March grew by 11.16% relative to February, being YuD 24.4 billion.

Revenues of social insurance organizations in March amounted to YuD 15.53 billion, being up by 9.63% relative to February.

Revenues of old age pension and disability insurance funds were valued at YuD 10.89 billion, displaying a growth by 13.68%

relative to the previous month. Revenues of health insurance organizations amounted to YuD 4.24 billion, which is by 3.28% up, while revenues of unemployment insurance organizations were valued at YuD 0.41 billion which is by 20.04% lower than in February, owing to the fact that donations to the Bureau of the Labor Market from the republic budget in March were reduced by half as compared to the previous months.

Structure of revenues of social insurance organizations





## The Roundtable and Dialogue of Experts in Organization of the Conrad-Adenauer Foundation and the G17 Institute - *Social Policy In The Market Economy*

# Social Policy - Social Dialogue

On April 16 2002, the G17 Institute and the Foundation Conrad Adenauer organized a meeting of experts on the subject ***Social Policy in the Market Economy - Social Policy - Social Dialogue***. The meeting was opened by **Milko Stimac**, the G17 Institute CEO. Welcoming the roundtable participants, Mr. Stimac stressed that from the very beginning of its work, the G17 Institute Social Policy Department has been conducting very ambitious researches in the area of social policy related to monitoring of reforms in Yugoslavia in order to recommend to the authorities the solutions for as painless as possible transition process. This roundtable is especially significant because of active participation of the guests from Germany, the country whose experience proves that social policy in market economy is not just a hot air, but indicates that "the social" and "the market" are mutually connected in modern societies. On Mr. Stimac's opinion, a social dialogue should lead towards consensus of the representatives of the employers, the employed - i.e. trade unions, and the government. Each of these categories is still dual in Serbia. It is therefore necessary first to establish a social agreement on what kind of market economy we want to build up, so as to enable the representatives of the mentioned partners to have a constructive and quality social dialogue. **Dr. Ryssel Gregor**, Head of the Conrad Adenauer Foundation Branch in FR Yugoslavia welcomed the roundtable participants, stressing that the Conrad Adenauer Foundation tends to assist in the activities in Yugoslavia primarily related to restructuring of public administration and organization of local autonomy; education of the so-called second generation politicians which is aimed at enabling them to take part in political competition worldwide; granting scholarships to the students who are to study in the country, and acquire the appropriate qualifications for efficient work in public administration; European integrations and Yugoslav, which is later to be Serbian and Montenegrin, path towards the European Union; social market economy as a very significant issue since the social policy, social dialogue and social partnership stand as the process which must be constantly discussed through the dialogue. Finishing his welcoming speech, Dr Ryssel Gregor concluded that this meeting was prepared with the G17 Institute experts and, owing to good preparations which provided high attendance of the experts and representatives of all social structures, it promises to be successful.

## SOCIAL POLICY AND SOCIAL DIALOGUE - RIGHT SUBJECT AT THE RIGHT MOMENT

**Zarko Korac**, Deputy Prime Minister in the Government of the Republic of Serbia, greeting the participants, said that this complex subject should be primarily analyzed from the aspect of relation between economy and the society we are building, together with increasingly dramatic issue in our country - what the social dialogue and social market economy are all about. Mr. Korac stressed that, to him as a social democrat, the idea of social market economy is very close.

The decision-makers in our country are in a very difficult situation which may be described as how to take the social dimension into account in one poor country together with necessity for new employment opportunities and reconstruction of economy, and who the participants in the social dialogue are. Constitution of all three parties of the dialogue is underway. Trade unions are in the stage of increasing membership and individual consolidation. Because of the great inflow of new members, however, it is very hard for the trade unions to distinguish their political profile since the new membership is politically heterogeneous. Therefore, the trade unions are at the beginning of a relatively long path of political education of their own members and establishing of a real political position. The Government has left the ideal position in which it were interpreting the world of labor best and making decisions by itself, without labor representatives who were to speak on behalf of their members. We live in a poor society with a very low GNP. The question arises as to how to pursue active social policy under such circumstances, apart from the ongoing passive policy measures. Therefore, Mr. Korac finds that this meeting is dedicated to the right subject which is not frequently discussed because it is very hard. Mr. Korac advanced his expectations of this meeting, which is, to answer to

the question what the concept of social market economy means in one poor transition society for the citizens of Serbia to realize that establishing the market economy and society of private capital and private ownership means that the state takes care of the citizens who are not the owners, through creating the adequate conditions for successful social dialogue and introduction of the adequate rights.

## GDP GROWTH IS A PREREQUISITE FOR RESOLVING SOCIAL PROBLEMS AND CONSTRUCTIVE SOCIAL DIALOGUE

**Branko Milanovic**, the World Bank expert and G17 Institute associate illustrated the current situation in Yugoslavia with regard to its relation to the world and other transition countries through several slides and comments. Mr. Milanovic analyzed the position of Serbia and Montenegro since 1950 to the present day measured by the social product per capita in US Dollars of equal purchasing power. The Serbian and Montenegrin social product had been growing fast and constantly until Milosevic came into power, when it started to plummet as compared to the world social product. Over the period 1970 - 1990, domestic social product exceeded the world average by 20%. At present, we are in the middle of the world GDP due to the sharp drop in the previous ten years. While the world continued to advance, our GDP was decreasing.

On the example of the transition countries, Mr. Milanovic showed that the whole Eastern Europe is recovering its GDP level prior to transition. Four countries (Poland, the Slovak Republic, Slovenia and Hungary) are at the level of their pre-transition GDP. All the states of the former Soviet Union are at the level of approximately 60% of the GDP they used to have before transition. Yugoslavia is in even worse situation, since the Yugoslav GDP is under 60% of what it used to be. Consequently we are in the worst situation of all transition countries.

Mr. Milanovic analyzed unemployment in transition countries and our position in that respect. All the transition countries faced growing unemployment after the transition had started. Poland, Bulgaria and the Slovak Republic had very high unemployment rates. Mr. Milanovic put a special emphasis on the case of Poland, since this country was very successful in reducing its unemployment rate drastically in 1998, but it grew again later. Unemployment in Poland ranges between 16 and 18%. In other countries, e.g. Hungary, Romania and Latvia unemployment rates are lower. Of course, we must be careful with these figures since there is a significant difference between the registered and the real unemployment in particular a country.

On Mr. Milanovic's opinion, Yugoslavia had faced some transition costs (drop in social product, increase in unemployment, increase in population), but, on the other hand, experienced little structural changes. At present, we are facing the dilemma: whether the coming structural changes are to worsen the situation additionally or there is some other costs we will have to bear. Social policy is therefore very important, but must not be comprehended as a solution for all the problems. Social policy can resolve the problems only following the growth in GDP. GDP growth is a prerequisite of social consensus. Social consensus is hard to be achieved in the conditions of poverty and decreasing social product.

Accordingly, social policy should be created in the way to enhance growth and development. Comprehended in this way, social policy is immanent to social market economy.

## AFFIRMATION OF THE ROLE OF SOCIAL POLICY IN MARKET ECONOMY

**Mirostnka Dinkic**, senior scientist and Head of the G17 Institute Social Policy Department addressed the issue of social policy in Yugoslavia. The state has a corrective role in the market economy and therefore it appears as the holder of social policy. Market competitiveness encourages efficiency in majority of enterprises. These enterprises are hence able to provide the employees with relatively high wages. However, some subjects of common importance experience unfair treatment in the market competition. The employees in such subjects do not have an objective possibility to have higher income that allows better life. In both cases the state should make corrections thorough the instruments of tax and social policies. On one side, the state corrects market irregularities through progressive taxation, while, on the other, through instruments of social policy, it provides for social security of the citizens for the case of illness, age, unemployment and disability to work.

Mrs. Dinkic highlighted the social policy pursued in Yugoslavia in the period of self-managed socialism. At the beginning of Yugoslav transition toward market the economy, thorough changes were made in the legal regulations. Broad fiscal reform which resulted in enactment of new legislation in 1991 erected a comprehensive mandatory system of social insurance, with the main functions based on the fund

principle in the area of health care, old age pension and disability insurance and unemployment insurance. Unfortunately, transition was stopped and Yugoslav society entered the period of deep crisis and poverty. Huge changes that occurred in 1992 enabled the then authorities to suspend a majority of the market-oriented reformist regulations enacted in the period 1990-1992. This was followed by the UN Security Council sanctions and a period of hyperinflation which lasted until the collapse of monetary system in January 1994. The social policy pursued in the period from early 1994 to October 2000 put the state in a position not to be able to collect enough revenues for servicing the citizens' claims in the area of social insurance and social protection. The then Serbian Government was postponing the payments, thus making enormous debts to the citizens.

Since the democratic regime came into power, the outstanding financial obligations on the basis of social rights of the citizens have been being serviced with financial assistance of the international community. Success of the social policy in the long run largely depends on efficiency of economy, hence determination of the current government to put the main emphasis on recovery of domestic economy and increase in its efficiency is completely understandable.

Mrs. Dinkic stressed that some solutions in social policy cannot be distinguished from the solutions in the economic field. This primarily refers to the fiscal area and labor market. Restructuring and privatization of the socially-owned enterprises cannot be successful without good market-oriented legislation. In late 2001 the new Labor Law was enacted in the Serbian Parliament. Legal solutions in the area of working relations are much more flexible and simplified now, allowing implementation of the main functions of the labor market and social dialogue among key partners on the labor market - trade unions as the representatives of the employed and unions of employers. Enactment of the new Labor Law was a prerequisite for restructuring of the labor market, and thus for liberating the enterprises from the social function they used to have. Other laws in this area are underway.

On Mrs. Dinkic's opinion, much has been done in the reform of instruments and essence of social policy by the current democratic authorities for a short period, i.e. since October 2000 up to now. The state gradually takes over pursuing the social policy, but as long as social ownership exists, social policy will be pursued by the enterprises, too. Therefore, the reform of enterprises, i.e. real sector, is of great importance. This process must be intensified, since we will have the adequate market-oriented social policy only with private ownership and healthy economy, enterprises and banks.

### **GOOD SOCIAL POLICY IS A PREREQUISITE FOR GOOD MARKET ECONOMY AND FOR ACCESSION OF THE TRANSITION COUNTRIES TO THE EUROPEAN UNION, WHICH MEANS GETTING CLOSER TO THE OPTIMAL CORRELATION FLEXICURITY WITHOUT OVERBURDENING THE ECONOMY AND THE STATE BUDGET WITH UNDUE COSTS**

**Herbert Scharrenbroich**, regional Director in the ILO (International Labor Organization), in his introductory speech, addressed the essential elements of the social and market economy. On Mr. Scharrenbroich's opinion, social market policy in Germany was a successful concept developed by the Christian - Democratic Union. His main thesis was that the social market economy is successful because it has a social and political concept. The concept of successful market economy begins with integration of the economic, financial and social policies. This concept is opposed to the neo-liberal concept of market economy which primarily give preference to personal zeal, competition and personal responsibility. Mr. Scharrenbroich said that social market economy aims to achieve and improve at the same time labor and social justice, competition and solidarity, individual responsibility and social security. Social market economy proceeds from the aspect that "the social regulatory policy" is a necessity in the human society since it cannot be created by the market itself.

The next thesis advanced by Mr. Scharrenbroich refers to the fact that there is no lasting peace without social justice, as it is stated in the Preamble of the ILO Statute. People are aware of this only after catastrophes, starting to enter into social agreements and making social dialogue after wars or collapse of totalitarian regime. Educated capitalists also basically accept this attitude. The World Bank puts a special emphasis on its programs aimed to reduce poverty. The Pact of Stability for South Eastern Europe, within the working table II ("Economic reconstruction") set up the Initiative for social cohesion, while on the 19987 OSCE Conference it was concluded that the lasting development cannot refer only to economy, but also to social policy and environment protection policy.

Mr. Scharrenbroich said that in the global competition, the most successful will be those countries which respond to the new challenges flexibly and dynamically. The employed persons and adequately socially protected families will be more ready

for new risky situations accepting the danger of temporary unemployment. The term "flexicurity" therefore attracts more and more followers.

It is necessary, now as it was before - which is the ultimate art of political estimation - to come closer to the optimal correlation *flexicurity* without overburdening the economy and the state budget with undue costs. A good social policy is a good for people, as Mr. Scharrenbroich underlined. "Social market economy is more suitable for achieving personal freedom, equal opportunities, ownership, growing welfare and equal social improvement than any other system (The CDU Basic program, article 66). Good social policy is a condition for good economic policy and should be guaranteed if the EU membership is set as an objective. The EU member states must be certain that the candidate country fulfills each prerequisite (*Acquis communautaire*) for two reasons. Firstly, because of competitiveness - *social dumping* of other EU member states must be prevented (since the economic achievements which result from *social dumping* bring a short-term joy). Secondly, because various social injustices cause *economic migrations*. Timely preparation of the candidate country for fulfilling the requirements for membership provides for shorter and faster path to the European Union.

## THE ROLE OF THE LABOR MARKET BUREAU IN IMPLEMENTATION OF THE PROCESS OF RESTRUCTURING AND TRANSITION INTO THE MARKET ECONOMY, WITH REFERENCE TO THE EXPERIENCE OF GERMANY

**Werner-Otto Schade**, Director of The Labor Market in the Province Baden-Wuttemberg in Germany explained the structure of the Labor Market Bureau and its activities. The Federal Labor Market Bureau in Germany has a three-level structure. At the top, there is the triple administration. The headquarters is in Nurnberg with ten regional labor market bureaus. Below these ten bureaus there are 181 local bureaus. On each level there is the so-called administrative board in which, as Mr. Schade emphasized, a social dialogue is pursued. Employers, employees and the public sector have their representatives in these boards. They participate in creation and setting up of the labor market policy.

Mr. Schade presented the German experience in implementation of the restructuring process, considering that the problems which emerged at that time were resolved successfully. Restructuring process was finished without significant breaches and revolutionary changes owing to the contribution of the Federal Labor Market Bureau which secured the social peace. Transition from the state-managed economy, which existed in the Eastern Germany, to social market economy is always a hard process since the social market economy is characterized by the elements which are, to a great extent in contradiction to the social peace. After long experience of safe employment, the employed found themselves in the situation of uncertain working positions. This means that they had to live with something they were not familiar with - i.e. high unemployment rate. Mr. Schade listed several activities that could be undertaken by the Labor Market Bureau in such a situation. There is a difference between a passive reaction, which includes all the allowances and compensations which provides for survival, especially unemployment allowances, and an active reaction, which depends on the concrete unemployment and employment structure, as well as on economic structure in the country. One possible action is leveling on the labor market in the way that demand and supply are leveled through employment mediation. Another important area deals with those who do not meet conditions for new employment.

It is hard to estimate whether the educational or restructuring measures can make a good start. The law should provide for those measures to be carried out before unemployment occurs and to prevent it. But in the case of unemployment of a greater extent, it is especially important to start with the adequate educational measures. With regard to this issue, each administration, each labor market policy faces the problems. At that very moment, no one can assume safely in what direction the educational and political trends will be developing in the next ten or twenty years. For example, labor market in Germany is projected to develop with some distinguishable trends by 2010. The estimations are that it will become increasingly hard for people with no professional education to find employment, while highly educated persons will have better employment opportunities. This is a signal for politicians to direct investments towards educational measures so as to meet the challenges in the following ten years.

Mr. Schade pointed to the employment opportunities in the new fields, in the sense that the unemployed with good business ideas are supported and encouraged to set up their own enterprise, alone or with a couple of colleagues, which create new employment for other unemployed. The money available for that purpose is called bridging financial assets, while it is necessary that the actors of the Labor



Market Bureau and economy as a whole are adjusted. The risk which exists in such employment must be covered by the adequate resources by the state. The self-employment turned to be increasingly present in Germany. Everyone who initiated employment through establishing his/her own company, employed additional 4-5 persons in the two following years. Accordingly, this kind of social dialogue is very important.

## THE ACTIVITIES OF THE LABOR MARKET BUREAU OF THE REPUBLIC OF SERBIA IN RESTRUCTURING AND TRANSITION PROCESS

**Svetozar Krstic**, Director of the Republic Bureau for the Labor Market stressed that this meeting was to discuss a serious issue, which requires full attention and stands as the biggest challenge for the new reformist authorities. On Mr. Krstic's opinion, Serbia does not have much choice, which cause the clear determination to base its development on the European models exclusively, i.e. on the European model of social market economy. The challenges encountered by the current reforms imply the fact that it is necessary to make a wide social consensus which includes the consensus between the trade unions and the government, as well, considering that the employers are not clearly structured; they are sometimes represented through the Chamber of Commerce, and lately through the Union of Employers. The consensus for implementation of reforms among these actors is a prerequisite without which the reform is not possible. Mr. Krstic supports the recently reached agreement between the trade union representatives and the Government on implementation of reforms, and thinks that this should be a dialogue of equally interested partners, who find their interest in making the agreement and who share the same opinion that there cannot be the winners and the losers in this matter, namely all are either the winners or the losers.

The Labor Market Bureau is the place which best reflects implementation of reforms - the challenges which Serbia faces in implementation of reforms are the best visible there. Mr. Krstic pointed to one paradox: compared with other countries, Serbia offers the highest eventuality of staying without job, but at the same time, it prescribes the lowest rates on the basis of unemployment insurance relative to other transition countries, and probably at the European level, as well. This rate accounts for 1.1%, while in Bavaria it is 6.8%. Under present circumstances, Serbia is forced to economize with assets and to keep its public expenditure within the limits projected by the international financiers, but at the same time, the state must take an active part on the market, be ready to accept all the unemployed which are to appear (The 2002 projection counts on 60,000 persons) and offer some choice to the existing 780,000 unemployed who are registered at the Labor Market Bureau.

Mr. Krstic presented several activities which are presently pursued by the Bureau, which stem from the mentioned role and position of the Bureau itself, partly due to the change of the Labor Law. There had been a monopoly on the working post in Serbia until recently, but with changes in the legislation, the employer has more liberty in decision-making, on the basis of enterprise, to chose who to make the employment contract with and when the employment is to terminate. Because of that, a mediating role of the Bureau is enhanced. 50,000 persons will be trained for an active search for employment and will work on change of the people's mind-set - they have to realize that the job must be found and that they must have an active attitude toward that problem.

Another area which the Bureau deals with refers to the various forms of re-education and additional training, considering that majority of persons registered at the Bureau have been searching a job for more than three years and consequently lost plenty of their skills and knowledge.

The third introduced novelty refers to support to free enterprise in Serbia. The Agency for SME development and the Bureau jointly launched the action for establishing the regional enterprise centers which are to act as the incubation centers for support of entrepreneurship development. Those actions are directed towards all the persons with enterprising ideas, and, when it is about the Bureau itself, towards the unemployed. Apart from a symbolic financial support for setting up an enterprise, the Labor Market Bureau and enterprise centers offer a short course on the issues important for operating in private business (basic knowledge in management, marketing, finance and accounting, computer literacy, English Language and legal regulations).

Another activity of the Labor Market Bureau is engagement in implementation of social programs and restructuring of enterprises. The Bureau staff is engaged in over 200 enterprises in which the process of restructuring and defining redundant labor is underway, having a consultative and advisory role in a preliminary procedure in order to help that as much as possible resources from the enterprises be put in function of new employment of the employees who currently work in these enterprises.

## IS PRIVATIZATION A SOURCE OF EXPENSES?

**Brantislav Canak**, president of the trade union "Nezavisnost" presented a very interesting experience of transition in Germany. In the first three years of transition, the expenses of the Federal Bureau of the Labor Market were approximately higher by DEM 5 billion on the average than the expenses of the Privatization Agency. The privatization profit per a working post amounted to about DEM 25,000, while the investment into one new working post were DEM 78,000. The margin between these two figures Mr. Canak sees as an interesting experience in restructuring the social policy from the socialist towards the market social policy, stressing that privatization should not only be comprehended as a source of profit, but also as a source of expenses.

## LABOR MARKET POLICY COULD DIMINISH THE EXPENSES OF RESTRUCTURING OF THE ENTERPRISES

**Werner-Otto Schade** explained in details the restructuring process in the former Germany DR and accompanying problems. On one side, unemployment in Germany DR, and partly in Germany as a whole, rose. One-third of the employed in the former Germany DR lost their jobs, which largely increased the expenses of the Labor Market Bureau, particularly in the new federal provinces. Another difficulty refers to the fact that in the first stage the economic development trends in the new provinces were not known. The first stage faced some painful experiences: some enterprises were taken over in hope to create new employment opportunities on that basis, but it turned out that some companies bought out their competition so as to prevent its work. Everything described is related to the free market competition and must be alleviated with assistance of appropriate labor market policy.

## SEARCH FOR NEW FORMS OF REPRESENTATIVES OF THE UNEMPLOYED

**Eduard Hoffmann**, German legal expert mentioned that Germany had a project for retirement of a part of redundancies who are older than 55. This caused huge social expenses. He also pointed to the time factor - some enterprises can be sold fast and easily, while the other require more time for sale and for transformation into a system of new enterprises. All the enterprises applied at banks for loans, which was hard due to stiff competition, and therefore they were employing a small number of workers, carefully choosing whom to employ. This process hence generated huge loss because many people never initiated employment again and retired in the meantime. On Mr. Hoffmann's opinion, another problem refers to the fact that the unemployed still do not have the appropriate representatives. The Labor Market Bureau could partly take that role, but it is not enough. Trade unions deal with those who are employed. Therefore, people who search for job in Serbia, as well as in Germany, must find new forms of their representation.

## HIGH PRICE OF THE GUARANTEED EMPLOYMENT IN SERBIA

**Branko Lubarda**, professor of Labor Law at the Faculty of Law in Belgrade stated that, in simple terms, the transition process consists of two stages. The first one refers to creation of the appropriate legal framework and building of new institutions on the labor market within the adopted social policy. In that stage a new practice emerges which includes activities within tripartite institutions. The second stage is about the condition for the accession to the EU - social achievements of the EU. The EU has been developing intensively, and therefore reaching these standard will be increasingly hard. At present, Serbia is in the stage of creation of legal framework. It is important that the idea of competition of working skills is emphasized, especially through flexible forms of employment. It should not be forgotten, Mr. Lubarda stressed, that stability of employment in our country had a relatively high price (low wages, involuntary paid leaves, encouragement of unregistered work, illegal work). On professor Lubarda's opinion, flexible forms of employment offer more chances for lawful engagement of workers and competition of working skills.

Professor Lubarda thinks that it is also significant that the new Labor Law also prescribes a new concept of competition of social partners, which will encourage social dialogue and tripartitism. Trade unions and employers' unions favor tripartitism, encouragement of social dialogue, and especially establishing of the institutions of tripartite character, such as socio-economic council, employment council, council for protection at work and numerous other reforms which are expected in the area of social insurance.

## PROGRESS IN THE NEW SOCIAL POLICY IN SERBIA

**Jela Bacevic**, presidency of the Group for Social Cohesion of the Pact for Stability said she is very pleased that Mr. Scharrenbroich took part at the roundtables, since he significantly contributed to the idea of forming a group for social cohesion in Yugoslavia. The social issues, on her opinion, are very important, especially in transition countries and they could be discussed very much. Mrs. Bacevic also talked, among other things, about the experiences of Yugoslavia in the area of social policy in the previous period, which differs from those in social market economy advanced by Mr. Scharrenbroich. She raised the question, on which she wanted to hear the answer, of the progress of the new social policy in Serbia.

**THE NEW AUTHORITIES CREATED NEW INSTRUMENTS OF SOCIAL POLICY, BUT THE DESIRED EFFECTS WILL REMAIN UNREALIZABLE AS LONG AS SOCIAL OWNERSHIP EXISTS. THE NEW SOCIAL POLICY HAS A MATERIAL AND STRUCTURAL COMPONENT. STRUCTURAL REFORMS LEAD THE COUNTRY IN THE PROPER DIRECTION**

Replying to the previously asked question, **Miroslav Dinkic** stressed that Yugoslavia had been far from market economy and the immanent social policy before the October 2000 changes, primarily owing to the inadequate mechanisms by which social policy were realized. In the year 2001, as the first year after democratic changes, the social policy has been aimed at creating the conditions which would provide the widest support of the citizens for reforms. The major emphases have been put at: (1) accurate servicing of the current social rights; (2) repayment of the outstanding debts to the socially vulnerable citizens from the previous period; (3) increasing the population's standards of living. A great part of the population's income was provided from the donations. After analysis of the macroeconomic trends at the beginning of this year, our suggestion was to gradually transform the donor's aid into the investments which would enable increase in employment and to provide the sources for financing the social area through fiscal instruments. This suggestion refers to our estimation that the donors will soon stop allocating our country the aid which is to be spent for consumption, nor it is desirable, but the donations should be seriously considered in terms of their developmental character. The Serbian Government is well aware of this fact. The creators of the 2002 economic policy count on the real growth in wages, pensions, social and other taxes up to the level of the GDP growth. The results of our surveys show that it is important at the beginning of the process of real reform, which is the case with Serbian reform, (as opposed to the one of the early 1990s which was soon abandoned), to put the emphasis on development of economy and amendments to the legislation in this area, which would create conditions for implementation of economic efficiency as the basis for pursuing a healthy social policy. Enactment of the new Labor Law and legislation in the fiscal area means certain progress in drawing the social policy closer to the desired market social policy. We are, however, still far from this because we have an additional problem, which is, social ownership. It is necessary to liberate, i.e. to eliminate social ownership since it proved to be inefficient and costly in social sense. Everything advanced so far lead us to the subject of reconstruction and privatization of socially-owned enterprises, the process which is slow and must be intensified. In the one-year period, the new authorities have done a lot with regard to creation of the social policy instruments immanent to the market economy, but they would not yield the desired results as long as we have social ownership. **Herbert Scharrenbroich** underscored that it follows clearly from the previous answers that the social policy contains serious material and structural component. He concluded that the upcoming structural reforms, as a rule, do not yield positive material effects in the social sphere, but lead the country in the right direction. It is not sufficient, as he said, to pay attention on social issues only, since the material aspect of social policy requires respect for economic policy, as well. It is necessary for Yugoslavia to get closer to the criteria for accession to the EU, which requires systematic monitoring and analysis of these criteria.

## CHARACTERISTICS OF SOCIAL POLICY IN THE NORDIC COUNTRIES

**Iva Jovanovic**, researcher in the G17 Institute Social Policy Department analyzed some characteristics of social policy in the Nordic countries (Denmark, Finland, Norway, Sweden). Policy makers in these countries believe that it is good to have a welfare state. This means that, on their opinion, the social welfare improves equality and eradicates poverty - the two objectives which are good by themselves for the

Nordic policy makers, which result in a consensus that the welfare state should be protected.

A central characteristic of the welfare state is the principle of universality, which means that all the citizens are equal and are entitled to the equal services, regardless of their economic and social status. This could explain a wide public support to the welfare policy in the Nordic countries. These countries have strong public sector and high taxes which finance the welfare state; these taxes are high in order to finance public funds, but also to minimize income inequalities. The basic rights of the citizens / residents are set out in the legislation. Those countries pay special attention to gender equality, thus the rights of women do not depend on the rights of men. Social benefits in these countries are at relatively high level (large public expenditure for education, employment, accommodation, social security, etc.). The egalitarianism is the light motive of the Nordic ethics and the central idea of their culture.

Increase in costs due to universal benefits prompted the Nordic countries to put larger emphasis on the issues of labor and benefits. Of course, there is an official position that the paid labor is a right and obligation of each person able to work. In Finland, for example, social allowances are cut by 20% if the beneficiary rejects an offer for job or education.

The Nordic social system is characterized by the belief that a vast majority of people will not abuse the rights on benefits and that they will rather work if there are descent and well-paid jobs available than opt for benefits provided by the social system. Many adults in the Nordic countries want to work; they work and would not gladly abandon their work even if they were offered abundant unemployment allowances on the other side.

#### **DEBTS TO THE SOCIALLY VULNERABLE CITIZENS FROM THE PREVIOUS PERIOD ARE HUGE AND ARE PAID FROM THE FOREIGN AID. AFFIRMATION OF THE NEW MECHANISMS AND INSTITUTIONS IN THE FIELD OF SOCIAL POLICY**

**Gordana Matkovic**, Social Policy Minister in the Government of Serbia first stressed that there are several ministries which are partly in charge of some social issues, while she is head of the Ministry responsible for the whole system of social protection (family, children, civil invalids of war) and legal regulation of old-age pension and disability system. According to her one-year experience as the Head of the Social Policy Ministry, the beneficiaries of social security instruments during the former regime were the most vulnerable citizens; they were not in position to have social dialogue, which might be the reason why the former regime caused probably the most damage to this category due to postponing servicing and not adjusting their allowances in accordance to the law. The former authorities achieved the largest debt to the socially vulnerable citizens since the payments were between 26 and 32 months late.

The Ministry for Social Policy, according to Minister Matkovic, initiated creation of several research projects, from which she expects concrete suggestions related to changes in social policy and reform in social institutions, including education of the human resources who make and implement the decisions and of those who offer social services directly in the field. This includes the initiatives for decentralization in financing the social services. A research which will serve as a basis for setting the real criteria for protection of the poorest citizens is underway. The Ministry is preparing the changes in the system of old-age pension and disability insurance, as well.

#### **A HUGE REAL AND DISGUISED UNEMPLOYMENT IS A LEGACY FROM THE PREVIOUS PERIOD. A QUALITY AND FINANCIALLY SUPPORTED SOCIAL PROGRAM PASSED BY THE MINISTRY OF LABOR IS A KEY FOR RESOLVING THIS PROBLEM IN THE TRANSITION PERIOD**

**Nebojsa Rajkovic**, adviser of the Labor Minister, underscored that the efficiency of social dialogue largely depends on speed in realization of global objectives, such as development of democracy, market economy, civil society and welfare state.

The Ministry of Labor in the period of transition has an unpleasant role since, on one side, it has to resolve a very important inherited problem of unemployment, while at the same time, it has to participate in realization of programs of restructuring in the real sector - banks and enterprises, with the adequate social program in terms of measures for resolving the problem of the employee who are to stay temporarily jobless in this process and financial support to them. The social programs created by the Ministry of Labor combine active and passive measures of labor market policy. According to this program, enterprises in Serbia will no longer be



"social welfare centers" where the quasi-employed come to receive "allowances" which are called *wages*. This program supports economic function of enterprises which is a significant novelty compared with the former period. Disguised unemployment is huge and require abundant financial resources to be resolved; those resources, projected for finishing the process of restructuring and privatization in enterprises in the next two years, objectively can not be provided by the republic budget and faster inflow of foreign aid is therefore necessary.

### **IN SOCIAL MARKET ECONOMY SOCIAL PARTNERS ARE MUTUALLY WELL ORGANIZED, COOPERATE AND HAVE A CONSTRUCTIVE SOCIAL DIALOGUE**

**Herbert Scharrenbroich** in his introductory speech stressed that in social market economy, as opposed to the neo-liberal market economy, economic actors are well organized and mutually cooperate. Instead of anonymous relations, they tend to establish relations based on mutual trust; long-term partnership relations prevail, aimed at eliminating disbalance of relations which can not be canceled by the market.

Social market economy of the European type must in any event fulfill the following minimum condition: **(1)** respect for the fundamental labor rights and other important minimum standards set by the ILO; **(2)** a system of industrial relations which respect the freedom of agreement between the partners on tariff contracts and social dialogue between social partners and government; **(3)** efficient system of social security based on minimally set standards - existential security in personal and general situations of crisis; **(4)** concept of employment and labor market policy which accept state interference and measures, as well as the necessary areas of responsibility of the social partner. The European social model requires organized labor relations at the different levels - both at the European and national macro-level, as well as at the level of sectors and enterprises.

On Mr. Scharrenbroich's opinion, social dialogue is a prerequisite for social and economic prosperity, especially after situations of crisis; the decisive instrument for long-term guarantee of welfare aimed for the sake of wide layers of population; the main condition for long-term positive economic, social, and hence development of the society as a whole.

This is adequately conformed with development of different cultures of social dialogue after wars and hard social and economic crisis, e.g. in Germany, Austria, Spain, Cyprus in the 1980s i.e. 1990s, and in Denmark, Ireland, Netherlands, Portugal, whereby each of these countries developed a social dialogue with different characteristics. In order to establish competitiveness of one country in the global economy and decisively improve the situation in economy and employment, the state must be able to adjust its labor, tax and social insurance legislation to the required requests as fast and efficiently as possible. Such flexibility will be possible if the necessary proposals and suggestions of the both social partners are accepted and carried out within their own framework. The changes must be acceptable not only for the enterprises and economy, but also for the employers and the unemployed. If the state monopoly of power in the country organized on the basis of the rule of law guarantees a special place for the government, than healthy and sustainable social dialogue requires the government to respect autonomy and negotiational sovereignty of the social partners. The state should even have the interest in offering the social partners help for strengthening their autonomy and negotiational power if they need it in the transitional period. Social dialogue should be organized in a way that both basic principles - solidarity and subsidiarity - are fully achieved.

Solidarity is required in two senses: relative to the sense of community and to membership which is not represented in negotiations, and relative to the partner or partners in the dialogue who must not be forced too much.

The organized meeting should be subsidiary. Subsidiarity means: **a)** that a smaller unit - here one social partner - should resolve what it can resolve by itself; **b)** that the smaller unit is in a position to be able to come to good terms through negotiations. Quality of decisions, i.e. propositions made by the social partners and offered to the government is considerably improved if the social partners possess joint or separate institution for processing the relevant data and projections. This activity in the majority of European countries is pursued on the basis of social dialogue (Ireland, Netherlands, Portugal, Greece) by some economic or social council. The institutes jointly managed by the social partners need not be huge since they are limited to collecting and mutually adjusting the data which already exist.

Each social dialogue requires strong and self-confident actors who are basically oriented toward partnership. Social partners must dispose of the basic institution which will connect them in terms of expertise and create conditions for trustful talks both in spiritual and psychological sense. Social partners should make deci-

sions on the issues which they are able to resolve by themselves (usually in the form of sets of solutions), for which they need government's support.

## **AFFIRMATION OF FUNDAMENTAL SOCIAL DIALOGUE WHICH IS OF A LONG-TERM IMPORTANCE FOR REACHING AND SUSTAINING STABILITY AND SOCIAL COHESION**

**Mihail Arandarenko**, Head of the G17 Institute Education Center discussed the problems and prospects of the social dialogue in Serbia and Yugoslavia. In the several coming years Serbia and Montenegro will have to pass through the hard and painful process of institutional reforms, restructuring and privatization. Unemployment, already high, will probably raise temporarily even more. Some groups will be more affected than others. Some acquired rights are in the process of canceling or are to be canceled soon, while the others are considerably limited. There is a need for fundamental social dialogue, which would, in ideal scenario, bring about sustainable social consensus in relatively short time, not only in terms of the basic objectives and direction, but also with regard to means, methods and acceptable division of transition costs at different levels of economic and social structure.

In the view of European integration, a long-term goal should refer to incorporation of the European legal solutions and best practice into the domestic institutional environment. Social partners from Serbia and Yugoslavia must start preparing for the social dialogue at the EU level. Social dialogue is of a long-term significance for achieving and sustaining stability and social cohesion in every developed pluralist democracy.

An initiative for establishing permanent tripartite body which will gather the representatives of the Government, trade unions and Chamber of Commerce (which used to represent the employers in collective bargaining until recently) at the federal level came from the federal trade union head office (SSSJ) soon after FRY was founded in the second half of 1992. Other actors did not show much enthusiasm about the idea and therefore the Social Council was established as late as in 1994 (The FRY Official Gazette, no 81-94), and started functioning as of mid-1995.

The social council had a very modest, exclusively consultative, competence in comparative sense. It acted as an organ of federal government, not as an independent body with only technical assistance of federal government. There were two categories of members permanent and visiting members. The members of the Council were chosen among the senior scientific associates, federal government members, parliament members and representatives of trade unions and unions of employers. The most significant document which institutionalized social dialogue in the post-Milosevic Serbia is the Agreement On Establishing, Scope And Way Of Functioning Of The Socio-Economic Council Of The Republic of Serbia of August 2 2001. This consultative body, as opposed to the former quasi-tripartite institutions, was founded in an agreement of the collective actors, not by the Government's decree or decision. Objectives of the Council are the following: establishing and realization of the democratic dialogue of the three social partners on important social and economic issues; monitoring, opinions and proposals of the suited solutions for protection of labor and social rights in the privatization process, in the field of labor legislation and other regulations which govern material and social position of the employed and employers; joint initiatives for modifications of the existing and enactment of new legislation and bylaws at the competent organs; setting directions of social-economic policy in transition; monitoring, evaluation and observations on the impact of changes in prices and wages to the position of the employed and the employers; mutual exchange of information on significant issues on which social partners take common positions; incentives to the social dialogue at local level within enterprises; preventive actions on resolving all significant issues in the area of activities of all three social partners; resolving of disputable issues in a peaceful way.

At present there is not much conscience in the public in Serbia about advantages and significance of social dialogue. This is not unusual for one post-communist country with a long tradition of strong and authoritarian state. Essential disparity of power with relatively weak trade unions and even weaker employer's associations put the state in a position to build up and raise its social partners and shape the structure of social dialogue. This inevitably brings about temptation to accept as legitimate partners only those who are ready to show enough advance understanding for policies and positions of the Government.

## **CRITICISM OF THE GOVERNMENT AND SOCIAL DIALOGUE**

**Milenko Smiljanic**, president of the Council of the Trade Unions Association of Serbia stressed that this meeting addressed the expected issues in expected way due to participation of relevant experts in this field. He highlighted our former prac-

tice in the way he saw it, pointing out that we have had social monologue of the government and of trade unions in our reformed Serbia until recently. The talks which are held in the form of dialogue could certainly be tripartite, but our political and social scene is burdened with problems. When a government has a clear legitimacy, it often uses it when it faces problems and criticism. The new Labor Law prescribes that the trade unions must be representative, which means quantified representativity, i.e. 15% membership on the territory, 15% in particular industry and 10% in a company. The problem refers the identity of trade unions. As for the Union of Employers, on Mr. Smiljkovic's opinion, it should be defined so as to prevent the directors in the socially-owned enterprises from destroying the economy and operating in the field of embezzlements and thefts. Huge redundancies which appear in transition and privatization as its leading process, is something that the trade unions are aware of. As Mr. Smiljkovic comprehends, the situation appears as the following: he opens a trade union meeting in which there are three categories of workers. The first one are the populists who he must shout at, the second one are "the man says we have a new director, but he forces us to work", and the third one are those for who the seminars, unionism and union fight are intended, i.e. those who want to work. By definition, the state is obliged to create social and economic environment in which people can earn their living, a healthy part of the labor world, reducing those who want to possess something with no work. He acknowledges only two types of management and administration: one, on the basis of ownership and the other on the basis of work. But in Serbia a management on the basis of political background dominates. Finally he stressed that we all support the rule of law, which is the easiest: legislative mechanisms in the parliament allow enactment of even 16 laws a day if you have majority in the parliament. The state must, above all, act as social and democratic, and only then, or simultaneously, to establish the rule of law. If we insist on the rule of law separately from these two elements, then we aim to totalitarianism.

**Brantislav Canak**, president of the Trade union "Nezavisnost" believes that in the Milosevic era there was not any form of social dialogue because hundreds of their members were in prison. Participation was marked as industrial democracy in the theory for the first time in the late 19<sup>th</sup> century. Later on, it was changed in economic democracy. As for what has been done in this country for the one and a half year of reforms, there are many opinions that much more could have been done if there had been enough good will. He gave an example of a good will. The last communist president in Hungary was Miklos Nemet. He introduced social dialogue in Hungary with its first six principles, which are in force even today. On Canak's opinion, we will continue to lose time on disputes until we realize that we need arbitration. He underlined that the Union of Employers is an equal partner in social dialogue, while all significant business activities that our country has started are carried out through the Chamber of Commerce. It means that the Chamber of Commerce will employ our members, who will not be covered by this social dialogue. According to the ILO principles and statute, chambers of commerce are not voluntary organization and can not be recognized as negotiator. An example, on his opinion, which implies that even naive mistakes in the social dialogue may produce huge damage, is the case of interruption of social dialogue in Italy. We are entering the world and must accept some obligations. Some of them have been already accepted, namely, ratified conventions, recommendations and declarations accepted by the ILO. Three of them directly refer to social dialogue: the 1960 Recommendation which refers to consultations at the national and industrial level; the 1976 Convention 144 on tripartite consultations and 1976 Recommendation on tripartite consultations. As regard the employers, Mr. Canak underscored that the first task is to identify our employers and to find a transitional form for chambers of commerce. On his opinion, neither trade unions nor the employers are clear in Serbia. Only the Government is clear since it is chosen by the people, and therefore trade unions must be clear so as to make the informed public aware of who is in this country responsible for lower wages or pension and for poverty.

## **DEVELOPMENT OF MARKET INSTITUTIONS IS VERY IMPORTANT FOR SUCCESS OF SOCIAL DIALOGUE. EDUCATIONAL ROLE OF GOVERNMENT IS NECESSARY FOR PROVIDING SUPPORT FOR REFORMS**

**Milena Jovictic**, professor of the Faculty of Economy in Belgrade believes that the role of the state in development of social institutions and the social dialogue are completely different issues. It is very important how much the new government changes legislation and institutions, i.e. at what pace the infrastructure "market - economy" is being established in order to respond to an important request such as efficient social dialogue among the social partners on the labor market. She raised

the question of the achievements accomplished through new legislation in the field of labor relations and what institutions are organized in the field so as to help people who lose their jobs in the process of restructuring and privatization of enterprises. What the state have done in respect to new employment opportunities. She agreed with Mrs. Dinkic and Mr. Milanovic that our economic development must be a driving force of transition because the present and future economic development must resolve the accumulated social problems from the past as well. It is therefore necessary to reach consensus in support of reforms on the basis of active state policy. In that sense little attention is paid to educational role in providing general agreement for implementation of reforms, which, actually, belongs to the government.

## **INSTITUTIONAL CONDITIONS FOR ATTRACTING FOREIGN DIRECT INVESTMENTS IS A PREREQUISITE FOR OVERCOMING LIMITATIONS FOR THE STATE TO BECOME A CANDIDATE FOR ACCESSION TO THE EUROPEAN UNION**

**Gordana Vukotic** from the Institute of Economic Science in Belgrade informed the participants that the Institute of Economic Science made a study on conditions which Serbia must fulfill in order to become a candidate for accession to the European Union, most probably in 2005. The survey showed that there are huge obstacles for our candidacy which refer, among other things, to high unemployment rate and low level of domestic social product per inhabitant. She therefore suggests that it is necessary to create institutional conditions for attracting foreign direct investments as soon as possible which would, through new employment opportunities and efficient private enterprises, contribute to alleviation of these two obstacles. We will have to wait a little until applying European achievements in the social area because we do not have financial resources for that at present, but these resources should be gradually increased through growth in economic efficiency.

## **RESPECT FOR LEGAL REGULATIONS ON PROTECTION OF WORKERS AT WORK**

**Zoran Jeftic** believes that enterprises have a social function in terms of respect for legal regulations on protection of workers at work and creation of working conditions which will make their work productive and business performance profitable. In other words, enterprise should not protect the workers who do not work.

## **SOCIAL DIALOGUE IN THE SLOVAK REPUBLIC**

**Jelena Momcilovic**, researcher in the G17 Institute presented the experience of social dialogue in the Slovak Republic. Trade unions as organizations of the employees were constituted at the all-trade union Congress after the demise of the Revolutionary Trade Union Movement. This event in the trade union movement led to the constitution of professional trade unions, which consequently created the Confederation of Trade Unions of the Slovak Republic (KOZ SR) in March 1990. Trade unions in Slovakia, as in other countries, are employees' organizations which pursue the protection of employee interests and rights in the sphere of labor law and social policy.

The most important organization of employees in Slovakia is the Confederation of Trade Unions of the Slovak Republic (KOZ SR). This organization includes 41 professional member trade unions, with the total of 830,542 members.

The role of the state in tripartism in Slovakia resulted from its position of power in relation to the other actors of economic and social life. Tripartism began its history in Slovakia in October 1990 when the three parties freely agreed to form the Council of Economic and Social Agreement. Development of institutions and legislative conditions for social partnership is only one of the necessary conditions for realizing its social functions. The second necessary condition is the acceptance of these institutions by the whole of society. The Council of Economic and Social Agreement of the Slovak Republic took a significant part in creating economic and social policy at the macro level as a consultative and negotiation body of the government, trade unions and employers. This Council is an independent negotiating body and in the process of tripartite negotiations aims to achieve mutual agreement or make adequate statements in essential economic and social issues (wages, labor law and employment issues). The structure of the Council is based on parity principle with equal number of representatives (7) delegated by the government, trade unions and employers. It may set up permanent or temporary working commissions and base its decisions on estimations and opinions of experts. The working commissions consist of experts from all three parties and are set up to deal with concrete issues. One of the basic documents of the Council is its statute, which exactly defines the form and procedures for conducting social dialogue at the highest level.



## A Roundtable Organized by the G17 Institute

# Registers in FR Yugoslavia and the Republic of Serbia

On March 29 2002, the G 17 Institute, in association with the USAID Project of commercial law reform, organized a meeting of experts on the subject "**Registers in FR Yugoslavia and the Republic of Serbia**". The meeting was opened by Aleksandra Jovanovic, Head of the G17 Institute Institutional Reforms Department.

Welcoming the participants, **Aleksandra Jovanovic** stressed that a need for reform in the area of registers, i.e. registers of economic entities, land registers, establishment of the register of charges and others has been frequently mentioned over the previous one and a half year of intensive reformist process in Yugoslavia. This need is especially emphasized by those who are required to register their titles, economic entities in particular, but also by those who keep the registers and the Ministries in charge of reform in this area. Complete and precise data available to the economic entities are the prerequisite of efficient market economy, because the registers, recording our rights and liabilities, reduce a risk and thus facilitate, accelerate and significantly reduce the costs of economic turnover. With regard to the great economic significance of registers, this meeting aims to examine and determine the current state in this area, the problems related to organization of registers and structure and costs of their maintenance.

Through this meeting, the G17 Institute attempts to support a wide and argumentative reconsideration and re-examination of the proposed or the existing solutions through evaluations and exchange of experience and opinions, and to define possible directions of the reform in this area, Aleksandra Jovanovic concluded.

## CHAOS IN THE REGISTRIES AND UNREGISTERED PROPERTY

**Mladjan Dinkic**, Governor of the National Bank of Yugoslavia believes that it is very important to discuss the issue of registers, in the view of increasingly frequent criticisms and questions in the public as to why there is no much more loans for small and medium enterprises or why the loans for purchasing residential objects (i.e. flats) are not coming through faster, considering the restored confidence of citizens in banks and relatively significant assets from domestic savings for crediting SMEs and citizens. For over a year, there has been a special department within the NBY for administrating the account of the Revolving Credit Fund of the Republic of Serbia and, according to the experience, the biggest problems which the banks face when they authorize loans to the SMEs refer to the chaos that exist in our registries and the fact that there are plenty of unregistered property which cannot serve as a security for loans. Governor Dinkic listed the following general obstacles for the loan-related operations in our country: there is no a unique system of property registering; irregularly recorded property in the registers (thus the charges can be recorded only off-register, while the earlier registered charges can not be checked); the data in land registers and cadastre are not coordinated and adjusted; official registers of movables do not exist; illicit building of residential and business objects; lack of general and detail urban development plans in municipalities and cities; huge administration at the level of cities, municipalities, and republic (issuing of permanent license takes as long as several months, and in some cases for over a year).

Governor Dinkic illustrated the seriousness for further economic development with an example of a client who had to wait for 206 days from the moment he submitted his business plan to the bank until he was authorized a loan, which is how long it took him to obtain all the necessary permits and approvals so as to legalize the objects and use them as a security for mortgage (this is a rather extreme case). Analyzing the process of loan authorization for SMEs through banks, the NBY concluded that out of the total of 202 positively evaluated requests, only 35 of them,

*Necessary reform of registers*

*The current situation in registries is an obstacle to expansion of loans*

*The more the projects, the more the new employment opportunities*

### **Legal framework as an obstacle for creditors**

which employed 345 new workers, have been realized in practice. Accordingly, seven times more projects could have employed about 2000 persons, as Governor Dinkic underlined.

Governor Dinkic also believes that, apart from work on organization of registers, it is also necessary to improve a legal framework i.e. to enact new legislation (a special Law on Security and modification or better enforcement of the Enforcement Procedure Law). Without settling the legal framework, larger expansion of loans either for economic activities or for citizens can not be expected, while authorization of such loans currently stands as the highest priority, crucial for growth in standards of living. Potentialities exist, both domestic and foreign (a considerable inflow of foreign capital is projected in this year); the projects also exist (although much more submitted than approved), while the legal framework, (which should be an instrument of security for the creditors) is the obstacle. It is necessary to answer the question who is to manage organization of registers; this task should be started as soon as possible, and, if it requires additional financing, it is possible to ask for donations from international community, as Governor Dinkic concluded.

## **REGISTERS AS A BASIS FOR BUILDING THE MARKET ECONOMY**

**Ruzica Stamenkovic**, director of the NBY Solvency Center observed in her introductory speech that registers stand as a significant basis in building up the market economy in our country. First Mrs. Stamenkovic gave a general definition of registers as a treasury of the essential information about physical and legal persons, their property, business performance, rights and liabilities, financial position, which are administered under supervision of state organs. Mrs. Stamenkovic then defined the registers from legal, technological and information aspect, stressing that such approach is necessary for complete and complex comprehension of registers.

Defining the current situation in the area of registers, Mrs. Stamenkovic underscored that they have had the role of evidence (consultative or declarative) so far at the expense informative role which did not exist in the former period; the recorded data were considered a business secret for all the users apart from the state (federal or republic) and judiciary organs. A different information system of registers in compliance with the requirements of market economy and modern information solutions was initiated as late as in early 1990s. In our country there are only two registers at present which are in accordance to the international standards: *The Central Register, Depot and Clearing of Securities*, with a sub-register of old hard currency savings bonds, and the *National Register of Legal Entities Solvency Data*. Creation of the Law on Collateral is underway, announcing soon establishing and implementation of the Register of Collateral. It is also necessary to set up information systems of basic registers which exist in every country, that is, the Register of Legal Entities, which are kept in commercial courts and the Real Estate Register, which are kept in Land Registry Courts.

Pointing to the importance of registers for economy of one state, Mrs. Stamenkovic underlined that building of the market economy through restructuring of economy includes establishment of a new financial system, in which, apart from development of banking system, conditions are created for development of financial markets, as well. For efficient financial market it is necessary to build up new information systems - registers of the status and solvency of legal and physical persons, of securities, of collateral, of real estate, of mortgage and others. These registries should provide equitable presentation of all actors on the market, information on status, financial position, ownership, mortgage or other charges on property, protection of the interests of investors and creditors, security of claims and legal security. Accordingly, registries stand as a national database of fundamental information on physical and legal persons, dispose of efficient mechanisms for settling the disputes in case of conflict of competitive interests and provide information which can be used as a basis for decision making on establishing and assessing credit risk.

As for functioning of the Registries, Mrs. Stamenkovic pointed out that they set the rules of their work through defining the criteria and procedures of keeping and maintaining the registers, updating and data processing, entering of documents, protection of information, access to information, expenses of work and data analy-

### **Registers as a source of information and evidence**

### **The role of registers on the financial market**

sis. On behalf of their clients, registries provide documents and information on participants on the open market regardless of their role (buyer, supplier, investor, creditor, borrower, etc.), certificates on property ownership, necessary instruments for secured transactions i.e. debt payment. Mrs. Stamenkovic then explained her division of registers into four groups: registers of legal entities, registers of property of physical and legal persons, registers aimed at securing transactions of physical and legal persons and registers of physical persons, with a detail list of registers within each of these basic groups.

Ending her introductory speech, Mrs. Stamenkovic raised three questions which could be a topic of discussion. The first one refers to legal basis of registers, i.e. way of keeping, establishing, initiation, organization, integration, relation among the registries and other issues, as well as the institutions which are to keep registers and the institutions which are to monitor the registries. These institutions would, accordingly, be also in charge of further development of registers they keep. The second question and dilemma is related to the Law on pledge of movable property and related titles. This law has not yet specified the institution which is to keep the Register of pledge of movables and related titles, while enforcement of law cannot start before this Register is established. Therefore, the institution which is to keep this register should be specified as soon as possible in order to initiate preparations for its establishing (elaboration of bylaws, technological solutions, education of human resources, etc). The third question refers to the Register of companies, and, in this respect, a suggestion that until information systems of registers is fully implemented in commercial courts, which is where they are usually kept, certificates of incorporation in the Court Register of Companies should be passed to the Registry on Solvency Data so as to provide complete information on legal entities, with special emphasis on information about registered capital, founders, entitlements and legal authority of the companies in legal and any other transfers, Ruzica Stamenkovic concluded.

## **REGISTER OF REAL PROPERTY AND PROPERTY-RELATED TITLES AND REGISTER OF MOVABLES AND TITLES RELATED TO MOVABLES**

**Dragor Hiber**, president of the Judiciary Council of the Serbian Parliament and professor at the Faculty of Law, Belgrade University in his introductory speech especially highlighted the issue of property registers and registers of movables and titles related to movables. These registers aim to secure transactions, which is necessary for development of credit function.

The issue of security of transactions, i.e. position of the creditor, is one of the most acute issues in our legal system. For a long time we have not had secured transactions instruments efficient enough in practice, neither when it is about personal instruments for securing transactions, nor with regard to the real collateral instruments (because this function is realized neither through mortgage nor chattel mortgage). On the other hand, the system of executive procedure, in spite of modifications of the Enforcement Procedure Law adopted in the recent years, is such that it not only lacks to guarantee the position of creditor, but also the creditor who has a valid judicial ruling against the debtor who dispose of propriety from which the creditor could be repaid must count on a long and sometimes vain procedure of debt collection.

The question is, as professor Hiber stressed, whether the changes in regulations on registers which refers to collateral instruments would necessarily mean that those instruments would perform their function in reality, i.e. provide more secure position of creditor, or, whether the credits will be more easily obtained if the legal regulations allow the debtor to offer the appropriate security instruments. The answer to this question must be positive. On his opinion, the evidence itself only records the existing situation and does not create a law, hence, better or worse evidence will not ensure anything.

As for mortgage and land registers, professor Hiber underscored that land registers exist in Vojvodina and Belgrade, they were reorganized ten years ago and adjusted to the cadastres and are more or less satisfactory. A mortgage can be registered, but the problem is that it is very hard, slow or almost impossible, for the

***Establishing the registers on ledge on movables and the titles related to movables is necessary***

***The position of creditor as the most acute issue in our legal system***

### **Reform of rules of discharge of the mortgagee**

mortgagee to be repaid from the mortgaged property. The mortgagee is not protected, which is the purpose of mortgage and hence, in our legal practice mortgage is replaced with simulated sale contracts that are banned by the law. Mr. Hiber therefore assumes that mortgage as an instrument of secured transactions will not be improved through the reform of land registers, but it is about another issue, which is the reform of regulations on discharge of mortgagee.

As for pledge of movables through registration in the court register or non-possessory pledge of movables, it was considered that significant improvement will be made in terms of functionality of pledge of movables, if the transfer of a piece of property to the creditor as a dominant form of security for a loan is replaced with other forms of pledge, i.e. official registration in the court register instead of handover. However, our legislation is familiar with the cases of non-possessory pledge, together with a possibility of transfer of the property to the creditor while the debtor keeps ownership right over it, although it does not function in practice. The only advantage of non-possessory pledge acquired by registration in the register, is that it enables pledge of a number of things which will not be immobilized from the economic life, i.e. they would continue to pursue their function. Another problem related to pledge refers to its realization. The main shortcoming of non-possessory pledge is the lack of publicity, which should be revised through registration in the register of movables. The question arises as to how this register is to be constituted and kept so as to be in compliance with the hypothesis of publicity, and, secondly, registration by things is not possible here, but only registration by persons, which raises the question of proving the propriety rights on the pledged things. These are the weaknesses which could be removed and which do not challenge the expedience of the idea itself, but there are questions for which it is reasonable not to hurry with their realization, professor Hiber concluded.

### **THE ROLE AND SIGNIFICANCE OF THE COURT REGISTER TODAY AND TOMORROW**

**Mirjana Trninic**, Head of the Registry of the Commercial Court in Belgrade highlighted the role and significance of the court register within the current and future legal regulations. All market economies, including ours, count on reliability of data recorded into the court register. Register sheet is the ID of a legal subject and a guarantee of its legal status; it offers all the interested persons information about all the facts relevant for legal turnover. Mrs. Trninic explained the definition, functions and significance of court register under the current Law on registering procedure, stressing that registration in the court register is not a simple action of recording certain data, but a special procedure prescribed under the law with a proposer and the competent court as participants. Prior to answering to an application for registration in the court register, the court, in each individual case, examines whether the prescribed material and formal conditions are fulfilled. Mrs. Trninic then gave a detail list of formal and material conditions for registration prescribed by the law, as well as the other obligations, rights and competence of the court in terms of procedure and decision-making on (non)-approving the request for registration. The court register records all forms of enterprises and other legal entities, together with information significant for legal turnover of these entities. Registering procedure is precisely prescribed by the Decree on registration in the court register, as well as the required documents and evidence on fulfilling legal and material conditions for registration that must be produced. The decisive role in fulfilling material and formal requirements as a prerequisite for registering in the court register belongs to the organs of an enterprise or other legal entity within the scope defined by the law and statute of the enterprise. When material and formal conditions are fulfilled, the Registry court carries out the requested registering.

However, under the changed conditions of running business, the enterprises and other legal entities are often compelled not to obey legal procedure (decision-making opposed to the statute of the enterprise, dismissal of the existing and nomination of the new administrative organ, parallel organs in the enterprises) which result in applications that are not eligible for registration in the court register. Again, this means, considering modest legal competence of the registry court which is limited to controlling function, that if the court, examining eligibility of such documents, finds that material conditions for registering are not fulfilled, it will reject

### **A register sheet as the ID of an enterprise**



such application as groundless. This causes further complications and long process of second instance at the basis of appeal. Under such circumstances, registry courts, in order to enable the enterprise to continue normal functioning, have been finding solutions in the institutes (liquidation, wind-up), which are not prescribed in registry court procedures. All of these indicate, as Mrs. Trninic pointed out, that it is necessary to establish the procedure of registering in the court register and the status of the registry itself, on the completely new bases, through enactment of the new Law on registering procedure with clearly defined concept of the court registry and activation of the existing information system of the Commercial court and its inclusion in the modern information network. Only in this way would the court registry be able to realize its function most efficiently.

As for the proposed legislative novelties in the context of improving the status of the court registry itself, Mrs. Trninic underscored that some solutions which are, on her opinion, crucial for proper functioning of the court registry in our conditions. In the view of the need of the court registry to be in function of economy and other legal subjects, on Mrs. Trninic opinion, it should not only remain under the competence of court (Commercial court), in spite of opposite opinions, but registry court should also have much wider competence, considering the problems in practice and inability of the registry court to influence the subject registered at it. Finally, Mrs. Trninic highlighted the issue of establishing the complete information system of the Commercial court, finding it significant and necessary in our market economy. Setting up such a system would contribute to accuracy and efficiency of the court's work, while at the same time, the data from the court registry would become a valuable database for all interested physical and legal persons. Organization of data in the court registries is urgent owing to the current situation in it and to the fact that software package is already prepared, while the existing Decree on registration in the court registry allows computer data processing which maximally simplifies registering procedure, issuance of certificates and storage of data.

Mrs. Trninic called for the special attention to be paid to the issue of court registries on the occasion of modification of regulations because of its significance in our law, so as to enable court registers to be in function of implementation of the full legal security of market economy, which is, finally, its purpose.

## **RESULTS OF THE G17 INSTITUTE WORKING STUDY ON REGISTRIES IN THE COMMERCIAL COURTS AND MUNICIPALITIES IN SERBIA**

**Robert Septl**, adviser in the Ministry of Justice of the Government of Serbia presented the results of the working study "The survey on registries in commercial courts and registries in municipalities in the Republic of Serbia" conducted by the G 17 Institute.

Thus, out of the total number of employed in the registries of commercial courts (105 employed), only 22 are judges who are overburdened relative to the other employed with regard to the annual number of registering applications, which could also affect correctness and regularity in their work. The fact that only one court has its separate building, while in 14 cases registries share the building with other organs and organizations indicates inadequate space disposability of the court registers. Furthermore, only two out of 15 courts declare that the available premises for storage and functioning of the registries are sufficient in terms of size, while in the rest of cases they are partially sufficient or completely insufficient. Also, only in two courts there are separate rooms for examination of registries, while seven courts dispose of waiting rooms for clients and five courts possess the archive of registry. In spite of emphasis put on significance and importance of registries, insufficient attention is paid to protection of archives, since only four out of 15 courts are equipped with fire protection, in five cases there is hydro isolation and physical security, while only one court has an alarm for unauthorized access to the archive.

The situation is disastrous when it is about technical equipment of the commercial courts registries. Only in 40% of cases (six courts) the registries do not have problem with electric power, while in 60% cases (nine courts) such problems exist (instable voltage or temporary blackouts); eight courts have direct telephone lines, while seven do not, but gets through over the central operator. Three courts do not

### ***The new Law on Registering Procedure***

### ***Wider competences of the registry courts***

### ***Registry courts are inadequately equipped***

dispose of any computers, while 12 are equipped with computers. As for modernity of the existing computer equipment, 40% of courts were not able to give precise data on generation of computers (which implies their illiteracy in computer technologies), 27% courts have computers of the 486 generation, while 33% courts possess the Pentium computers without precise emphasis of their generation (I, II or III). Very interesting data were obtained on the question of utilization of operative systems for computers, where in 40% of cases the computers are not used at all, in 33% cases computers are used for playing games, while only in 27% cases the operative system Word is used.

With regard to the evidence of the subjects of registration, 12 courts keep the evidence of economic subjects on the basis of the type of economic subject, which is the easiest (enterprises, banks, insurance companies, etc.), nine courts keep the evidence on the basis of organizational types, while only 5% keep the evidence on the basis of ownership structure. Although accurate maintenance of register is their legal obligation, according to the results of the survey, 27% courts do not keep the evidence of applications submitted for change of registration data, while the rest of 73% keep this evidence, but this figure should be only taken in part since the question in the poll referred to the simplest changes (head office or name, but with no evidence of changes in amount of the capital, merge or split of a company, etc.).

Despite the need for constant communication between the courts and state organs and obligation to conduct that communication in the form of official correspondence, 80% of courts do not keep evidence on what kind of requests they received from other state organs, while only 20% courts keep this evidence.

On the question about problems in the registering procedures, the respondents in majority of cases (57%) indicated number of documents and technical and linguistic impreciseness of regulations, followed by inadequate competence of the courts to impose discipline on clients (29%), but also incompetent judges (7%) and technical equipment (7%).

According to the results of this poll and funds possibly provided from the donors, it is necessary to organize a public debate on modifications and supplements to the laws and bylaws, registering procedure and competent organs; professional training and expertise of the employed, technical and information modernization of the registries and courts, all of these aimed at constituting the unique database with easy and simple search for all the interested persons, Robert Sepi concluded.

### ***Incompetence of judges as one of the problems in the registering procedure***

## **LAND REGISTRY - PROBLEMS AND SUGGESTIONS**

**Dragan Benovic**, Head of the Land Registry of the Second Municipal Court in Belgrade said that the land register are public register in which all property-related rights are noted. Those rights are obtained, transferred, limited or canceled through registration in the land register, which means that the registration has a consultative character. There are three systems of land registries in the world today: the French, the Austrian and the German-Austrian system. Our system of land register relies on the last one, according to the Law on internal organization, establishing and revision of land registers and the Law on land registers (both of 1930), and the 1931 Law on registering land divisions, write-off and mergers, which are in force today. Although Yugoslavia have not enacted any special legal regulations on land registers and registering procedure after the war, numerous regulations which govern real property ownership include provisions which refer to land registers, i.e. evidence of rights on real property which contributed to affirmation of this institution.

Land registers encompass 46% of the territory of the Republic of Serbia, out of which 24.3% is in Vojvodina, while all bigger municipalities except for Kraljevo and Uzice are covered by the land registers. Land registers deals with both land and buildings, including the cadastre of land. The difference between land register and cadastre refers to different purpose of registering. Cadastre registers property regardless of legal title and serves for economic, administrative, statistical data, for creation of land registers and as a basis for setting the cadastre income from land. On the other hand, land registers aims at constituting and organizing entitlements and legal regulations with regard to particular property. In order to respond to its purpose, land register must always be in compliance with the factual situation, i.e. with cadastre. In our legislation, cadastre is a basis for land register, but is not of

### ***The 1930 legal regulations on land registers are still in force***

significance for acquiring any title on real property, the function reserved exclusively for land register. As opposed to this, the 1988 Law on state survey and cadastre and registration of property rights, which was supplemented later, made an attempt to attribute the matter previously regulated by the former Law on land registers to the cadastre. Thus, the cadastre as an administrative organ was assigned the role of taking over the land registers from the competence of courts in the set time limit. Under this law, unique evidence encompasses, fortunately or unfortunately, 1-2% of the Serbian territory.

As the representative of the Second Municipal Court in Belgrade, the biggest land registry court in Serbia, Mr. Benovic stressed that he fully supports and agrees with the opinions and critical observations advanced by numerous legal experts in their works with regard to the Law on state survey, cadastre and registration of propriety rights.

Mr. Benovic further pointed out that the land register is accurate as long as the holders of propriety rights are accurate and capable to obtain particular documentation and submit it to the court. The Second Municipal Court achieved the 10-day accuracy, while a daily accuracy is also possible in terms of resolving the requests for property ownership registration. He also underscored that such accuracy, which is prescribed by the Decree of the President of Court, is aimed at avoiding the problem of corruption.

Mr. Benovic suggested adoption of one comprehensive Law on land registers and the Law on electronic keeping and maintenance of land registries. On his opinion, legal regulations included in the 1930 Law on land register are good and should only be adjusted to the present conditions; for example, the new land registers law should contain provisions that the ownership sheet is the only public certificate for proving real property ownership.

## INITIATIVES FOR MODIFICATION TO THE LAW ON REGISTERING PROCEDURE

**Mihajlo Rulic**, acting president of the Higher Commercial Court in Belgrade informed the participants about the results and conclusions on the conference of the registry judges of commercial courts from Belgrade and Serbia, Higher Commercial Court from Belgrade and the Supreme court held in February 2002 on the subject "Privatization and registration in the court registers". The conclusions generally refer to the need for initiating modifications to the Law on registering procedure and related Decree. Booz Allen & Hamilton, the USAID Project of commercial legislation reform, also participated at the conference and gave significant contribution in interpretation of the issues from comparative jurisprudence and provided the participants with the Croatian, Bosnian, Macedonian, German, Austrian and English law texts which regulate registration of legal entities.

Mr. Rulic also said that, at the level of the Federal Ministry of Justice, a working group is formed not for modification, but for supplement to the existing Law on registering procedure. Several meetings have been held so far, but Mr. Rulic believes that serious work will start only when the members of the working group become more familiar with the regulations in comparative jurisprudence, since the solutions in the existing law are archaic.

**Goran Savic**, judge of the Higher Commercial Court in Belgrade, Court Registry Department, praised engagement of the Federal Ministry of Justice on resolving the issue of court registers, but on his opinion, it is hard for this law to be adopted at the federal level for the justified political reasons. Therefore, he called for this matter to be transferred to the Republic level so as to finish the job by the end of this year.

**Geza Babijanovic**, judge of the Commercial Court in Subotica, among other things underlined significance of the Law on enterprises in the context of the Law on registering procedure and accompanying bylaws. Mr. Babijanovic observed that there are about 156 data which are entered in the register on the basis of the Law on Enterprises and a number of other data recorded under other laws. He is skeptical with regard to eventual improvements, since the Law on enterprises as a basis, and the Law on registering procedure and the related Decree prescribe largely formal registering conditions, and consequently, plenty of information about the enterprises and their propriety are not registered, which create additional problems in terms of realization of mortgage and similar rights.

*Land register includes the cadastre*

*The owners' sheet as the only public document of ownership*

*This matter should be better resolved at the republic than at the federal level*

Because of such problems, Mr. Babijanovic thinks that evidence and registry of legal entities is one issue, separated from the issue of registration of propriety, which may be kept differently than so far. If all the changes in state of propriety and capital of an enterprise (except for registered capital) are kept at courts, than the courts should issue a daily balance and income sheets and would turn into a kind of accounting organ.

### **A LACK OF UNDERSTANDING, THE IDEAS AND OBSERVATIONS OF FOREIGN REPRESENTATIVES**

On the question of **Eufron Snyder** from the Booz Allen & Hamilton whether the land registers are really not entitled to correct data, i.e. certificates without individual request for such a correction, Mr. Dragan Benovic explained that, according to the 1930 Law on land registries, the first instance court itself is not entitled to modify the once issued certificate in the land registering procedure. Under this solution, the only allowed legal remedy is appeal.

The question asked by Mrs. Snyder was related to the idea that the existing lack of coordination between factual ownership and land registers can be corrected through enacting a special law which would authorize the appropriate court to carry out the necessary corrections. Mr. Benovic agreed that corrections should be regulated by law, but stressed again that, in enforcement of the current law and with regard to the basic function of land registries which includes the absolute accuracy of the registered data, such activity is not allowed since the title holder recorded in the land registers is maximally protected.

Eufron Snyder concluded that, if the owner's request is the only condition for land registration, in case of transaction between the current and future owner and their negligence in recording the transaction on change of ownership, then, under the present regulations it is not possible to revise that incorrectness in the land registers. Mr. Benovic agreed, stressing again that it is about regulations from the former Land Registries Law which does not prescribe registering in the land registers as compulsory, but he mentioned that this could be revised by enacting the law which would transform the owner sheet into the public document, which would mean compulsory registering.

At the end, Eufron Snyder concluded that the system in our country is good and in accordance with all the prescribed standards, but the problem is in its implementation and insufficient awareness of its advantages.

### **INFORMATION SYSTEM AS A PREREQUISITE OF ACCURACY OF WORK IN COURT REGISTRIES**

**Milan Pajtasev**, judge of the Commercial Court in Zrenjanin agreed with his colleagues about the need to change the Law on registering procedure, pointing that this issue should be regulated at the republic level. Mr. Pajtasev, underlining that information system is a prerequisite of accurate work of registries and the organs they communicate with, mentioned that there is a program in the Ministry of Justice which deals with information system that is almost completed and has been carried out as a pilot project in Zrenjanin for three months. On his opinion, this program is valuable for several reasons. Firstly, the court could keep the registers more efficiently and accurately, reducing the paper work; secondly, networking of all courts with the Higher Commercial Court and Ministry of Justice would create a unique database available to all registries and interested persons, such as the Solvency Center, which would be very significant for potential foreign investors, Mr. Pajtasev concluded.

### **CONCLUSION**

Closing the meeting, Aleksandra Jovanovic stressed that the G17 Institute will continue to organize such events, which could be significant for the reform of our legislation and for technical assistance to our courts.

*The owner's request is the only condition for land registering*

*The registered titular is maximally protected*

*The system itself is good, but it should be enforced as well*

**Prepared by:  
Dejan Gajic**



# Cooperation in the Field of Justice and Home Affairs

This significant subject is one of the common policies of the European Union and encompasses a range of activities related to the interior security. Awareness of necessity of closer cooperation within the EC resulted from a series of terrorist attacks in the mid-1970s, after which a special body was set up, with the task to collect information about terrorist organizations and activities. By adoption of the 1986 Common European Act, which laid down establishing an area without internal frontiers with free movement of goods, people, services and capital as of 1993 as a priority objective, this policy, as the instrument of its implementation, has become increasingly important. Under the Schengen Agreement, the EU continued to enact legislation and common measures in this field.

## ***The Schengen Agreement***

One of the most important steps in this area is certainly conclusion of the *Schengen Agreement* in 1985, which entered into force as of July 1995. This Agreement referred to several key issues.

With regard to the visa regime, member states harmonized their immigration legislation and agreed on a list of the third states whose citizens are required a visa for entering the territory of countries - signatories, as well as the rules under which the citizens of those countries can be refused a visa. Responding to an increasingly serious problem of *illegal immigration*, concrete measures were adopted in order to prevent illegal entry in the EU. As for the right to asylum, new regulations were adopted defining the term of asylum and another terms related to treatment of persons who apply for asylum in the Member States. The largest problems refer to the cases when one person applies for asylum in several EU countries, and therefore common criteria were set which serve as a basis for examination and decision-making on asylum application in each separate Member State, which, as it will be shown, brought about changes to the 1990 Dublin Convention.

As regards the cooperation between the judicial and interior organs, it must be stressed that satisfactory level of cooperation between the police and courts in the Member States had already existed prior to the Schengen, but the Agreement set more precise regulations about competence of courts and police in the field of cross-frontier cooperation.

Finally, on the basis of the Schengen Agreement, a special information system was established, aimed at connecting databases of the Member States and allowing an easy and immediate access to information about missing persons, arrests, indictments, forged passports, etc.

## ***Modifications and Supplements to the Dublin Convention***

On July 31 2002, European Commission adopted the Regulation Proposal which contains criteria and mechanisms for identifying member states in charge of and responsible for examination of asylum claim applied in one Member State.

This Proposal modifies the existing Dublin Convention of June 15 1990, which had regulated the issue of Member States' responsibility with the objective to ensure that the asylum claim is examined in one Member State at least.

According to the Proposal, regulations and responsibilities should be based on objective criteria which are universally accepted and reflect the awareness that each Member State is accountable relative to the other members for the actions taken with regard to entry and residence of the third country nationals on the united European area which guarantees free movement of people. A special emphasis is put on the principles of solidarity and cooperation. In particular, accountable will be the country which continuously grants a large number of entry permits to the asylum seekers, visas and residence permits, or pursues insufficient or inadequate control at frontiers or allows entry to the persons without visa.

Furthermore, the main objective of the Proposal is to guarantee the asylum applicants the proper access to the procedures for recognizing the refugee status and to prevent abuse of these procedures, particularly by these asylum seekers who make applications in several EU countries at the same time. Finally, it revises legal gaps and uncertainties of the Dublin Convention, legal regulations are adjusted to the area without internal frontiers, while fast identification of the responsible Member State increases efficiency of the current regulations, as well.

Another novelty in the area of the Dublin Convention enforcement is a decision made by 14 Member States (except for Denmark) to set up a common database of digital fingerprints of the asylum seekers, which would enable information if one person who does not possess an ID of any form has already made asylum claim in any other Member State. At the meeting held on February 28 2002, Ministers of Justice and Foreign Affairs of these fourteen countries gave the green light for establishing this database named *Eurodac*. This database for comparison of digital fingerprints will enable efficient enforcement of the Dublin Convention, which foresees that the asylum seeker's file is kept by the Member State which that person entered first. It encompasses three categories of persons: those who appear before the administrative organ aimed at submitting an asylum claim; those who applied at the occasion of illegal crossing the border; and those who have irregular residence and were discovered in the process of documents control. The first database is to start as of 2002.

## ***The European Warrant for Arrest and Agreements on Mutual Recognition of Judicial Verdicts***

The EU has recently adopted three important documents in this area: the *European Warrant for arrest* of December 2001, which further enables the EU Member States to reach an

Urednik  
Tanja Miscevic, MA

**Cooperation in the  
area of justice and  
home affairs**

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**Economic News**  
Dejan Gajic

### ***The European warrant for arrest and agreements on mutual recognition of judicial verdicts***

agreement on mutual recognition of judicial rulings on "freezing" the property and the evidence. According to the adopted solution as of January 1 2003, each judicial verdict of this type made in one Member States will be directly enforced in the other. Up to now, in similar cases, the country of enforcement required a separate judicial verdict to be made, which required additional time, significantly slowing down efficient fight against crime, especially in cases of money laundry, when there have been cases that the evidence were destroyed or removed to another country.

This document was adopted on February 28 2002 on the basis of a Proposal made by France, Belgium and Sweden in 2000. It refers to the introduction and application of the principle of mutual recognition of judicial rulings and decisions preceding the verdict. The adopted mechanism in particular cancels double incrimination for 32 criminal offences for which a minimal sentence of 3 years of prison is prescribed, which enables the judge to act expeditiously.

Also, on April 18 2002, the Commission adopted the Regulation Proposal in the area of civil and commercial disputes, which will allow the creditor who wins the executive ruling on the lawsuit which is not contested by the debtor, to initiate direct enforcement in another Member State, whereby they do not have to pass any aggravating administrative or judicial procedures. This Proposal for the first time establishes a principle that the Member States are obliged to treat the ruling made in another Member State in the same way as if it were made by domestic court of law. This is a pilot project within the Mutual Recognition Program, with the long-term objective to eliminate intermediary measures which are still necessary for recognition and enforcement of judicial rulings in other member states in civil and commercial disputes.

### ***The Green Papers on the European Prosecutor and Alternative Ways of Dispute Resolution in Civil and Commercial Matters***

At the Nice Summit in December 2000 a legal ground for establishing the institution of the European Prosecutor who would deal with criminal protection of the Union financial interest was created.

The Green Papers of the European Prosecutor issued by the Commission in order to initiate consultations on this issue, defines the legal status and internal organization of the European Chamber which is to deal with protection of the Union financial interests, incrimination of actions, procedure of judicial control and the European Prosecutor's acts, as well as the relations with other competent organs and subjects. The Proposal is that the newly established organ be an independent judicial organ who is in charge of leading investigations and proceedings against the criminal offenders in the prescribed field on the whole EU territory, while final ruling is to stay under competence of the national courts of the Member States. This document particularly contains a call for the public debate addressed to the Member States, experts and all the interested citizens.

Another important document is the *Commission Green Papers* on the alternative ways of dispute resolution (ADR) in civil and commercial matters of April 19 2002. This Green Papers is a part of the EU strategy for creating a single area of freedom, safety and justice, and aims at providing easier access to the judiciary. On the basis of the action plan defined at the Vienna Summit and the European Council Tampere Solutions, Ministries of Justice of the 15 Member States called the Commission to present the proposals on alternative methods of resolution of this kind of disputes and open a wide consultations in order to prepare undertaking the concrete measures.

### ***Other Significant Documents***

On the basis of the wide debate and consultations, on April 23 2002, the EU Commission adopted a Proposal for a Council Frame Decision on the fight against cyber crime and attacks against information systems. According to the Commission's position, this type of illicit behavior can be prevented only through improvements in security of the information systems infrastructure and allocation of resources for reaction to the competent services, everything aimed at encouraging and promoting the security of information systems. This document addresses the new most significant forms of criminal activity such as hacking, viruses, distribution of malicious code and denial of service attack. It is aimed at covering the existing legal gaps and approximating the Member States' legislation in terms of providing law enforcement and judicial authorities with instruments for fight against these new forms of criminal.

On April 18 2002 the Council and Parliament of the European Union, in the codecision-making process, jointly adopted modifications of the 1976 Directive on equality at work. For the first time at the EU level, the term of sexual harassment is defined in a unique way, and in future this will stand as a form of gender discrimination. According to one poll, 40-50% women in the EU feel that they have been victims of sexual harassment at least once during their working life, the feeling shared by about 10% of men. The basic modifications refer to introduction of a new article which prescribes that harassment based on gender, as well as sexual harassment are kind of discrimination, and to the unique definition of sexual harassment which will be in force in all Member States. It is defined as a situation in which various forms of undesirable verbal, non-verbal or physical behavior with sexual connotation occurs aimed at or resulting in offence of personal dignity, especially through creating the atmosphere of intimidation, hostility, degradation, humiliation or offense. The definitions of direct or indirect discrimination correspond to those adopted by the Member States in their internal legislation on fight against discrimination enacted on the basis of the Amsterdam Treaty Article 13. These modifications removed the limits for compensation of damages in such cases, while at the same time, ordered the Member States to set up special agencies with wide competence regarding the respect for obligation of equal treatment at work.

### ***Green Papers on the European Prosecutor and alternative ways of dispute resolution in civil and commercial matters***

### ***Other significant documents***

# Economic News

The agreements on trade liberalization concluded between the EU and nine applicant countries (Estonia, Hungary, the Czech Republic, the Slovak Republic, Latvia, Bulgaria, Slovenia, Romania, Lithuania) entered into force in July 2000. Poland joined the agreement in September 2000. It includes increased extent of trade liberalization between the EU and candidate countries, as well as the necessary preparations of the candidates for the united market. Under the agreement, CEEC agricultural exports to the EU to be exempted from duty will increase from, on average, 37% to, on average, 77%. EU agricultural exports to the nine CEECs to be exempted from duty will increase from, on average, 20% to 37%. The agreement prescribed the negotiations to continue with the aim to further free up the trade in agricultural products between the EU and the CEECs. It is interesting to mention that the negotiating approach covered three different kinds of bilateral concessions linked to the degree of sensitivity of the products and the nature of the Common Agricultural Policy (CAP) mechanisms. One of the approaches is the so-called "double zero" or "double profit" approach, which covers products for which the CAP provides for border protection (i.e. import tariffs and export subsidies). Such approach provides for the reciprocal elimination of export subsidies and import tariffs within the framework of tariff quotas.

In the framework of the so-called "double profit" agreements between the EU and candidate countries, the Commission today adopted a proposal for a Council regulation in view of additional liberalization of the agricultural trade with Estonia. The proposal foresees a total liberalization of all ad valorem duties as well as elimination within tariff quotas of the import duties for remained agricultural products which were not liberalized. In practice, this means that the trade in agricultural products between the EU and Estonia will be completely liberalized. Estonia is the first country that the Commission reached agreement with after 2000, to take a further step in mutually liberalizing farm trade. The negotiations with the 9 remaining Central and Eastern European Countries are currently under way.

With regard to the forthcoming second summit with Heads of State and Government from Latin America and the Caribbean (LAC) in Madrid which is to be held on May 17<sup>th</sup> and 18<sup>th</sup>, the European Commission is encouraging wide dialogue on the key themes of the Summit through a series of events (forums, gatherings, etc.) which will focus on democracy, multilateralism, regional integration, social justice and cultural diversity. The European Commission has co-financed a number of the events that encourage public debate between people in both continents, not only the officials but also all the actors in civil society (academics, NGOs, business professionals, representatives of the social partners, human rights experts, and others). Representatives from 50 European, Latin American and Caribbean countries are expected to take part in the forthcoming summit. It should be mentioned that the first EU / LAC summit held in Rio in June 1999 for the first time brought together the countries from these continents and established a strategic partnership between the two regions. The aim of the Summit was to promote political, economic and cultural dialogue and strengthened relations between the regions. The Madrid summit should evaluate the progress made since the Rio Summit and set out the paths for the future of the partnership.

The European Commission has adopted its first annual report on the EU's Stabilization and Association Process. Albania, Bosnia and Herzegovina, Croatia, the Federal Republic of Yugoslavia and the former Yugoslav Republic of Macedonia are the participants in this process. It will be followed by further annual reports from now on. The report gives an assessment on the progress of each country, and of the Stabilization and Association process as a whole. It allows each country and the EU to assess how it is progressing through the various stages preparing for the Stabilization and Association Agreement (SAA), negotiating and implementing it. It underscores the considerable progress of the last few years. But it also highlights problems and difficulties, and areas where further action, by the countries themselves, or by the EU, is required. In the report, the Commission also proposes enhanced arrangements for political dialogue and regional co-operation among the participants through establishment of a new political forum with regard to great success of the Zagreb Summit.

Transport infrastructure in Europe between 1990 and 1999 has 25% more motorways and 4% less railway lines in the EU, according to the Eurostat.

As for the length of the motorway network in the EU, it grew by more than 25%, i.e. from 39,200 km in 1991 to nearly 50,000 km in 1999. Motorway density in the EU in 1999 was six times higher than the average observed in the Central European candidate countries. The countries where the length of motorways increased the most during this period were Spain and France. However, the biggest relative increases occurred in countries where motorway density had been low in 1990: Portugal, Ireland, Greece and Finland.

*Liberalization of trade  
in agricultural  
products*

*The EU - LAC Summit*

*Traffic Infrastructure*



## **Partnership Agreements between the EU and ACP**

As for the length of the rail network, it contracted by 4% over the same period from 160,000km to 153,600 km. The biggest drops in the network were in Germany and France with regard to the absolute figures, but it was in Portugal that the biggest relative reduction occurred (-22%). In the candidate countries the rail network declined by 6% over the same period, i.e. by 4,000 km, out of which 3,300 km were in Poland. In terms of density, the rail network in the candidate countries was well ahead as compared with the EU countries (60.6 km per 1,000 km<sup>2</sup> relative to 48.1) in 1999. The highest density was in the Czech Republic (120 km).

Rail network in the CEE countries used twice as much as in the EU for freight transport but only one third as much for passenger traffic

The European Commission adopted the strategy of a new type of trade partnership - the Economic Partnership Agreements - between the EU and 76 countries of the African, Caribbean and Pacific (ACP). These agreements are an innovative type of accord, which will combine trade and development issues in ways tailored to national and regional conditions in this group of developing countries. They will help to boost trade and economic co-operation and development of local and regional markets, helping ACP countries to integrate into the world economy. The strategy will now be submitted to the 15 member states for their approval. Under the Agreement, negotiations are scheduled to get underway in September 2002.

According to the latest Eurobarometer published by the European Commission after one hundred days of euro, the public in the euro area confirms its widespread positive feelings about the new currency. 84% of euro area citizens feel that the euro changeover was smooth and successful in general, while even 87% declare that the operation went smoothly for them personally. 72% of euro area citizens declare that they were well prepared on the 1st of January EURO-day, while 88% declare that they were well informed. 81% of the euro area citizens agree that the euro changeover is a major event in the history of Europe. But, the majority still uses the national currency units as a reference point, while 17% of citizens "think in euro" in all their daily transactions. This however did not have an impact on citizens' buying behavior. Close to 50% of citizens however prefer that retailers, banks, etc continue with the double display of prices as the Commission has recommended. Regarding prices, three quarter of citizens still feel that prices were raised and rounded up after the 1 January. Full Eurobarometer survey is available on the web site:

**[http://europa.eu.int/comm/public\\_opinion/index\\_fr.htm](http://europa.eu.int/comm/public_opinion/index_fr.htm)**

The European Commission has approved a EUR 35.9 million global plan for Serbia for the rest of this year and the beginning of next year. The aid addresses the immediate needs of about half a million refugees, displaced persons and other vulnerable groups: food and non-food products and health care, and resolving of long-term problems (housing, repatriation to Bosnia and Croatia) and social integration schemes for the target groups.

The European Commission published the full report on "Macro-economic and financial stability developments in candidate countries". It consists of an overview, outlining main common themes on macroeconomic and financial sector stability challenges in candidate countries and of thirteen country-specific chapters. Full report is available on:

**[http://europa.eu.int/comm/economy\\_finance/publications/enlargement\\_papers/enlargementpapers08](http://europa.eu.int/comm/economy_finance/publications/enlargement_papers/enlargementpapers08)**

The European Commission decided today to confer the management of Sapard aid to the Czech authorities. After successful preparations for implementation of the Sapard program (Special Pre-accession Program for Agriculture and Rural Development), the Czech and Slovak Republics can now begin its implementation. Under this scheme, the Czech Republic is now entitled to EUR 22.4 million and Slovakia to EUR 18.6 million annually. Payment of the first advance can be made up to the maximum of 49% of the annual amount.

This program is aimed to the candidate countries in order to prepare them for joining the system of Common Agricultural Policy and the unique EU market. The main objectives of the program are application of the "acquis" in the candidate countries and sorting out the problems related to agricultural and rural development.

European Commission released the forecast of economic indicators in the candidate countries for the period 2001-2003 on the basis of the 2001 and the first half of 2002 data. The world recession affected the decrease in economic growth rate in the candidate countries in 2001. Owing to the high domestic demand, these countries tend towards fast recovery, but bad results of 2001 will affect the 2002 growth rate. The average growth rate in 2003 is projected at 4%. Low prices of international goods affected reduction in inflation in 2001, while further decrease in inflation is projected for the given period owing primarily to the anti-inflation policy in the countries with the highest inflation rates (Turkey and Romania). Restructuring of enterprises and productivity growth resulted in high unemployment rate in 2001. Increase in employment opportunities and improvements on the labor market are also projected for 2003. Growth in export demand in the course of 2002 and 2003 are expected to prevent considerable worsening in balance of payments in spite of large domestic demand, while budget deficit is to remain high as a result of low growth rates and high transition costs throughout whole forecasted period.

## **A hundred days of euro**

## **Humanitarian aid to Serbia**

## **SAPARD**